BRITISH COLUMBIA

INDUSTRIAL RELATIONS COUNCIL

1991

ANNUAL REPORT

92-04951/

British Columbia Cataloguing in Publication Data
British Columbia. Industrial Relations Council.
Annual report. -- 1987 -

Continues: Labour Relations Board of British Columbia. Annual report of the Labour Relations Board of British Columbia for the year ... ISSN 0319-0404.
ISSN 0838-0899 = Annual report - British Columbia. Industrial Relations Council

1. British Columbia. Industrial Relations Council - Periodicals. 2. Arbiration, Industrial - British Columbia - Periodicals. 3. Labor disputes - British Columbia - Periodicals.

HD8101.5.B74B74 354.7110083'2

TABLE OF CONTENTS

	Letter of Transmittal	1
	Commissioner's Message	2
I	The Council	4
II	Members of the Council	9
III	Statutory Amendments	14
IV	Practice and Procedure Before the Council	15
V	Highlights of Council Decisions	17
VI	Judicial Review	29
VII	Caseload	32
VIII	Appendix of Statistical Tables	45

INDUSTRIAL RELATIONS COUNCIL

February 28, 1992

The Honourable Moe Sihota
Minister of Labour and Consumer Services
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Mr. Minister:

Herewith the Annual Report of the Industrial Relations Council, for the year ended December 31, 1991.

Respectfully submitted,

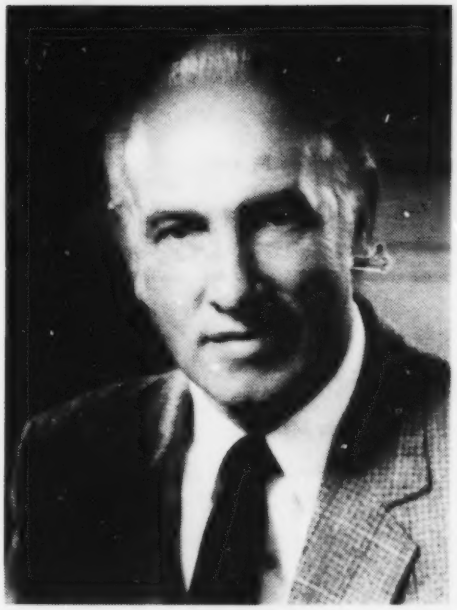
Edward R. Peck
Commissioner

:msf
encl

1125 HOWE STREET
VANCOUVER, B.C. V6Z 2K8

TELEPHONE:(604) 660-1300
FACSIMILE:(604) 660-1892

COMMISSIONER'S MESSAGE



1991 witnessed the passage of another year in the annals of labour relations in British Columbia, notable for its tranquillity. While the reasons for this encouraging development are attributable to a number of factors, including hard bargaining by trade unions and employers devoid of conflict, it is indisputable that it also occurred against the backdrop of the Industrial Relations Act and reflected the activities of the Industrial Relations Council in regulating affairs between the players in the labour relations community.

Once again the annual volume of business experienced by the Council revealed a healthy reliance by unions, employers and individuals on the resources of the Council. Indeed, unions filed some 2,400 applications, more than five times the number filed by employers (see Table 8 - Statistics). Organizing activity by unions was brisk, on a par with 1990, resulting in the issuance of 244 certification orders embracing some 5,400 employees. And 534 unfair labour practice complaints were filed, also on a par with the 1990 experience.

1991 marked the first anniversary of the Disputes Resolution Division's Collective Bargaining Information Summary publication. Subscriptions have increased substantially and will continue to grow in the years to come. This information is also available on-line and accessible by outside organizations by dialling from a personal computer to the Council's mainframe.

This year saw limited changes in the ranks of Vice-Chairmen: Martin Levinson left the Council to relocate in the east, and Barry Goff terminated his service after 5 years with the Council and the predecessor Labour Relations Board. Levinson was replaced by Richard Covell, a trade union lawyer with 17 years experience in labour law and civil litigation. Vice-Chairman Heather McDonald had her term extended for two additional years.

It was with sorrow that we observed the sudden death of one of our Members, employee representative Ken Andrews. In his short time with the Council Ken made a significant contribution; he will be missed by all who knew him. Prince George resident, John G. Johnston, was appointed by the Government in July as a Member representing employers (see page 11 for particulars). Long time Member Clare Alcott tendered his resignation after serving with distinction with the Council and its predecessor for 15 years. Members Tony Poje and Mark Lefflcr had their terms extended for an additional two years.

As is customary, I express my gratitude to the Industrial Relations Officers of the Ministry of Labour for their investigative work and effective contribution to the administration of labour law in the Province of British Columbia. My thanks as well to all officers, members and staff of the Council for their loyalty and dedicated efforts.

Finally, a special expression of thanks to Kenneth Albertini, Chairman of the Adjudication Division, upon completing ten years of service with the Council and the predecessor L.R.B. as

a Vice Chairman adjudicator, Registrar and Divisional Chairman. Ken's tenure with the tribunal, apart from my own, is unprecedented, and is otherwise commendable for his uncompromising neutrality and strong adjudication. It is particularly gratifying to record that during the year he was commended by the Alberta Government for his leadership and skill in chairing a special tribunal responsible for resolving a major dispute in Alberta's construction industry.

Postscript

As I prepare this message in the early days of 1992, I am conscious of the fact that my term of office will expire this year and that this is the last annual report of the tribunal which I shall have the privilege of overseeing. When I leave office, I will have served the Council and the Labour Relations Board for almost eleven years. In these circumstances I presume to offer some closing thoughts.

I resist the temptation to indulge in a lengthy retrospective, observing simply that the Council is now in its fifth year of operation, and that in that time it has matured as an administrative tribunal, and has contributed in a significant fashion to the development of labour law not only in the Province, but in Canada as well; indeed since 1988, no less than 95 decisions of the Council have been found appropriate for inclusion in the Canadian Labour Relations Boards Reports. Other achievements of the Council, highlighted in earlier Annual Reports, include the reorganization and repositioning of the tribunal's offices, the recruitment of talented adjudicators, members and staff, the establishment of a first class labour law library, the introduction of a preventive mediation program, a computerized case management program, and collective bargaining data information service second to none. The officers of the Council take pride in these achievements, and I have found it very rewarding to have been a part of it all. Finally, I want to say for the benefit of anyone who follows me that the integrity and independence of the tribunal is not something that is to be taken for granted. To maintain an independent and neutral status requires vigilance, and a singular effort on the part of the head of the tribunal. There can be no compromise on this score, and Governments and others in the labour relations community need to be reminded of this from time to time.

I THE COUNCIL

Section 27(1) of the *Industrial Relations Act* (the "Act") reads as follows:

> 27.(1) The council, having regard to the public interest as well as the rights of individuals and the rights and obligations of the parties before it and recognizing the desirability for employers and employees to achieve and maintain good working conditions as participants in and beneficiaries of a competitive market economy, shall exercise the powers and perform the duties conferred or imposed on it under this Act so as to achieve the expeditious resolution of labour disputes, and for these purposes the council shall have regard to the following purposes and objects:
>
> (a) securing and maintaining industrial peace and furthering harmonious relations between employers and employees;
>
> (b) improving the practices and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees;
>
> (c) promoting conditions favourable to the orderly and constructive settlement of disputes between employers and employees or their freely chosen trade unions;
>
> (d) encouraging the voluntary resolution of collective bargaining disputes;
>
> (e) minimizing the harmful effects of labour disputes on persons who are not involved in the disputes;
>
> (f) providing such assistance to employers and bargaining agents as may facilitate the making or renewing of collective agreements;
>
> (g) gathering and publishing information and statistics respecting collective bargaining in the Province.

These purposes and objects form the policy foundation for the Council's comprehensive jurisdiction under the Act, which governs the process of collective bargaining and offers mechanisms to assist in the resolution of labour disputes in both the public and private sectors of the Province. In addition to the responsibilities under the Act, the Council is charged with responsibility in labour relations matters under eleven other statutes (see Table B). The Council's expansive jurisdiction is unique among Canadian labour tribunals and requires an administrative structure to accommodate this varied legislative mandate. Section 12(2) of the Act provides that the Council shall consist of a commissioner, vice chairmen, and as many members equal in number representative of employers and employees respectively, as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council. The commissioner is the head of the Council. The Act requires that there be at least two divisions of the Council, one of which the commissioner has designated the Industrial Relations Adjudication Division (the "Adjudication Division"), and the other which he has designated the Disputes Resolution Division. The commissioner is required by the Act to designate one of the vice chairmen to be chairman of the Adjudication Division and another vice chairman to be chairman of the Disputes Resolution Division. He has also designated a vice chairman as registrar of the Council. The chairmen and registrar report

directly to the commissioner, but the two Divisions and the Registry operate as departments administratively independent of each other.

A department of the Council, entitled Finance and Administration, administers the personnel, budget, library, and computer requirements for the tribunal as a whole.

The abbreviated organization chart on page 8 offers a visual illustration of the Council's administrative structure. Following is a brief description of the Council's administrative operations.

Office of the Commissioner

As head of the Council, the commissioner has a general obligation to oversee the administration of the legislation and the Council's operations. (The chairmen of the Adjudication and Dispute Resolution Divisions, the registrar and the director of administration all report directly to the commissioner). Pursuant to Section 13 of the Act, the commissioner is empowered to establish panels and refer business to them. Accordingly, the commissioner, on the recommendation of the chairman, appoints the adjudication panels in the Adjudication Division and may himself sit on such a panel to resolve a legal dispute. He manages the disposition of all reconsideration applications (appeals). The commissioner has significant powers under Part 8.1 of the Act in assisting parties to achieve a voluntary resolution of interest disputes. These powers include the appointment of mediators and fact-finders and the referral of disputes to public interest inquiry boards.

Office of the Registrar

Every application received by the Council enters the system through the registrar's office, which oversees the administration and progress of the case as it makes its way through the system until the matter is finally disposed of by the Council. Applications which under the Act are to be made to the commissioner or chairman of the Disputes Resolution Division must be initiated through the registrar's office which will process and direct them to the appropriate individual. The effective and speedy processing of cases is augmented by the Council's new computer system. Thus it is particularly important for computerized case monitoring/management purposes, that every application to the Council be processed through the one location of the registrar's department. The registrar is also responsible for the Council's special investigating officers. He assigns them to assist parties to achieve a settlement of a legal issue, with the knowledge that a formal hearing and legal adjudication may be unnecessary. Finally, the registrar, as a vice chairman of the Council, may chair or sit as a member of an adjudication panel. The registrar, as a sole panel member, may dispose of certain applications that lend themselves to summary disposition. This process contributes to a speedy disposition of many types of applications. The registrar's staff includes two assistant registrars, three special investigating officers, a secretary and significant support staff.

The Adjudication Division

The Adjudication Division concentrates on adjudicating legal issues in labour relations such as the acquisition and termination of bargaining rights, complaints of unfair labour practices and allegations of illegal strikes, lockouts or picketing activity. It is not involved in the resolution of interest disputes. The majority of applications to the Council are directed to the Adjudication Division for disposition.

Investigating officers achieve a voluntary resolution in approximately half of the cases assigned. Notwithstanding the high percentage of voluntary resolution, the Adjudication Division has a heavy caseload which must be dealt with expeditiously. The Division is managed by a senior vice chairman who is appointed chairman of the Division. He monitors the workload of the Division, deals with any problems that may arise in the scheduling of hearings or difficulties that may occur in the processing of a given case, and is generally responsible for the efficient provision of the Council's adjudicative services. Thus the new computerized case monitoring/management system is of great assistance to the chairman. As of December 31, 1991, there were eight vice chairmen reporting to the chairman of the Adjudication Division. Given that he is also a vice chairman of the Council, the chairman may himself chair or sit as a member of an adjudication panel.

Legal services to the Adjudication Division are provided by a staff of four lawyers. The senior solicitor is employed on a continuing basis by the Council, whereas other lawyers are hired for terms certain. The lawyers report to the chairman of the Adjudication Division through the senior solicitor. They engage in legal research, attend hearings and provide legal advice to the members of the Adjudication Division, as well as represent or assist in representing the Council's interests in judicial review proceedings.

The Disputes Resolution Division

This Division has the statutory responsibility to monitor all labour disputes in the Province and assist parties in the voluntary resolution of collective bargaining conflict. Preventive Mediation is encouraged. Moreover, the Division is intended to function as an industrial relations resource centre, for the Act requires that it gather and publish information and statistical summaries and analysis respecting private and public sector settlements, labour relations, employment and collective bargaining in the Province. The Division's computer based "Collective Bargaining Information System" is a critical tool in this regard as a supplement to the "Collective Bargaining Information Monthly Summary" published by Division staff. The Division is managed by a senior vice chairman, who is appointed chairman by the commissioner. The Act empowers the chairman to appoint a mediation officer to assist parties in resolving an interest dispute, at the request of a party, on his own motion, or at the direction of the commissioner. As of December 31, 1991, three mediators, as well as support staff, reported to the chairman of this Division.

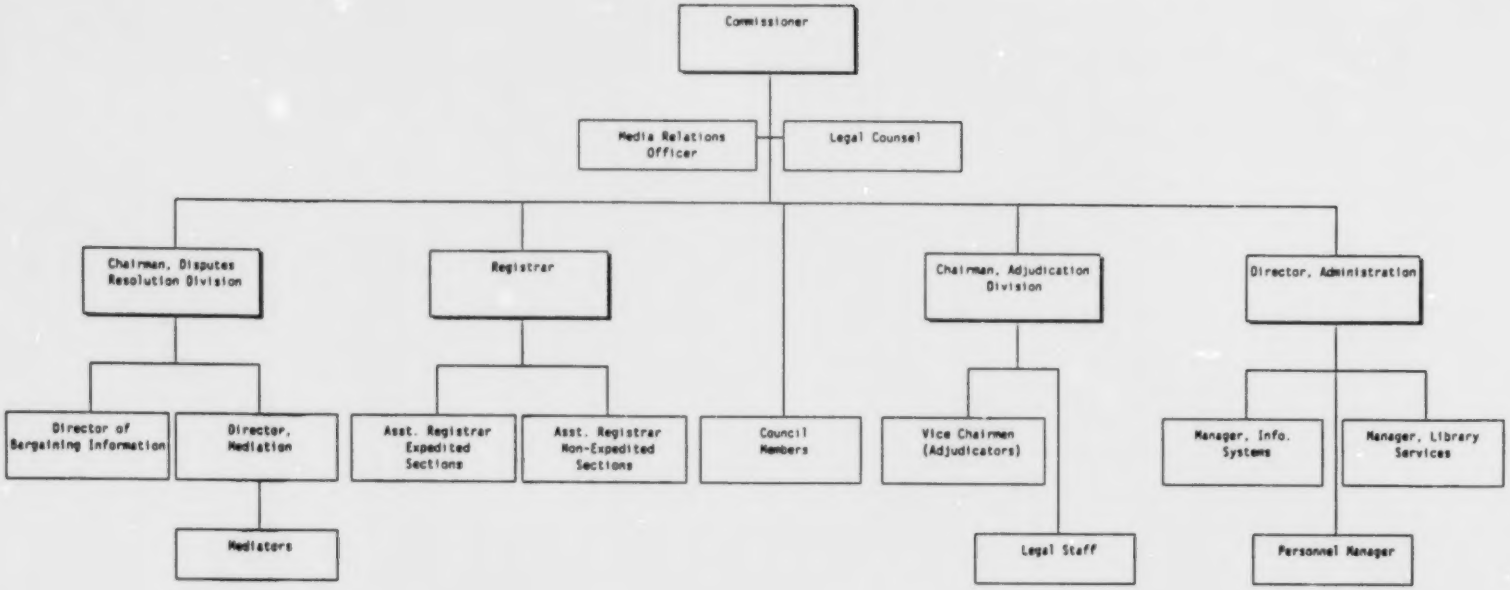
Finance and Administration Group

The Director of the Finance and Administration group is Andre Danyliu. Reporting to him are the managers of Personnel, G. Giles, Information Systems, E. Guy, and Library Services, A. Kenning. This group is responsible for ensuring that the IRC's accommodation, personnel, financial and communication needs are effectively managed within the parameters of the Financial Administration Act and Regulations.

During the past year the IRC's budget was drastically reduced without any diminution in maintaining previous levels of service. This was accomplished through staff consolidation and a moratorium on purchasing and halting all new computer-systems development. Nonetheless refinements were made to components of our electronic Case Management and Collective Bargaining Information Systems. The general public as well as labour relations practitioners continued to enjoy the full facilities of our labour relations library. Many new clients took advantage of the Collective Bargaining Information System's ability to generate current collective bargaining data by using their personal computers through a simple telephone "dial-up" technique developed in-house by Disputes Resolution Division personnel.

As a result of employee initiatives, programs aimed at recycling and reusing office materials were developed. These had a beneficial environmental impact as well as generated cost-savings during a budgetarily-constrained year.

Industrial Relations Council
Abbreviated Organization Structure



II MEMBERS OF THE COUNCIL

As of December 31, 1991, the Council consisted of the following members:

EDWARD R. PECK

Commissioner

Mr. Peck graduated from the University of British Columbia in 1949 with the degree of Bachelor of Commerce. He possesses more than thirty-seven years of industrial relations experience in public and private industry, spanning both federal and provincial jurisdictions, and has studied both the U.S. and British industrial relations models. (In 1961 he was seconded for a year to the Central Electricity Generating Board at London England.) The positions he has held include: Chief of Personnel Services, B.C. Power Commission (1955-61); General Manager, Peace Power and Columbia Hydro Constructors (1966-69); Manager of Labour Relations, B.C. Hydro (1970-71); President, Towboat Industrial Relations Association of B.C. (1971-73); Vice Chairman and Chief Administrative Officer, Labour Relations Board of B.C. (1973-79); Commissioner, Compensation Stabilization Program of B.C. (1982-87). He has also served as an Industrial Inquiry Commissioner and mediator/arbitrator in numerous disputes, and as an advisor to various ministers of labour and British Columbia governments.

KENNETH E. ALBERTINI

Chairman, Adjudication Division

Mr. Albertini is a highly experienced labour relations practitioner with more than 10 years service in adjudicating legal issues at the Council and its predecessor, the Labour Relations Board. He has held many positions involving the negotiation and administration of collective agreements in British Columbia, including supervision of operations, Greater Victoria School District #61 (1971-1973), and president of Transport Labour Relations (1976-1977). He served with distinction as a mediation officer with the Mediation Services Branch of the B.C. Ministry of Labour for seven years. Mr. Albertini was appointed vice chairman of the Labour Relations Board of B.C. in 1981, and vice chairman/registrar in 1984, which positions he held until his appointment with the Council. He is a member of the Arbitrators' Association of British Columbia.

DARWIN T. BENSON

Chairman, Disputes Resolution Division

Mr. Benson has many years experience with industry, government and trade unions involving personnel training, negotiation, and administration of collective agreements, and development of labour relations policy. From 1967 to 1979 he was International Staff Representative with the United Steelworkers of America. Mr. Benson was instrumental in forming the Kootenay-Boundary Labour Relations Association, a collective bargaining organization of 24 municipalities. He served as chief conciliation officer, Mountain Region, Labour Canada. From 1982 until his appointment to the Council, he served successively as superintendent of labour relations with Esso Resources Canada Ltd. at Canada Wide Mines, and at Byron Creek Collieries in British Columbia.

A. PAUL DEVINE

Registrar

Mr. Devine graduated from the University of British Columbia in 1972 with an LL.B degree. After articling with the Vancouver law firm of Alexander, Guest and Company, he was appointed as a compensation consultant with the British Columbia Department of Labour, representing workers and dependents before the Workers' Compensation Boards of Review. Mr. Devine has extensive experience as an adjudicator. He held several positions at the

Workers' Compensation Boards of Review/Review Board since his appointment as administrative chairman in 1977, including that of registrar. He was appointed chairman of numerous appeal boards, and adjudicated thousands of cases in his ten years of service with the Boards of Review/Review Board. Prior to his appointment with the Council, Mr. Devine served as a commissioner of the Workers' Compensation Board of British Columbia.

EMILY BURKE *Vice Chairman*

Ms. Burke completed two years at the University of Lethbridge and graduated from Dalhousie Law School in 1981. She served as a staff lawyer with the former Labour Relations Board from 1984 to 1986 and then practised labour law with the firm of Alexander, Holburn, Beaudin and Lang, which involved work for employers in various sectors including forestry, health care, construction, municipal and manufacturing. She joined the Council in 1990.

RICHARD COVELL *Vice Chairman*

Mr. Covell received his Bachelor of Arts (1969) and Bachelor of Laws (1972) at the University of British Columbia. He is a trade union lawyer with 17 years experience in the practise of labour law and civil litigation in the city of Vancouver. He has acted for a number of union clients such as Vancouver/New Westminster Newspaper Guild, Transit Management Association, M.A.P.E.S. and the Letter Carriers'.

JOE CROWDER *Vice Chairman*

Mr. Crowder has an extensive background in labour relations in the Province in both the private and public sectors encompassing railroading, railcar manufacturing, winch and truck manufacturing, and the negotiation of collective agreements in each of these industries. In 1981 he became the Director of Industrial Relations for the City of Kamloops. At this time, he also became a member of the bargaining committee for the Okanagan Mainline Municipal Labour Relations Association. He has served for many years as Executive Vice-President and member of the Board of Directors with Interlock, a non-profit society providing employee assistance programs to the labour relations community, co-sponsored by management and labour in B.C.

RICHARD LONGPRE *Vice Chairman*

Mr. Longpre graduated from the University of British Columbia in 1976 with a Bachelor of Commerce degree, majoring in industrial relations. He joined Noranda Mines Limited where over the next four years he negotiated collective agreements and coordinated labour relations policy amongst the Noranda Group of companies in Ontario, the Prairies and British Columbia. In 1981 Longpre joined the Mediation Services Branch of the Ministry of Labour as a mediator. After three years with the Branch, he set up an independent labour arbitration and mediation practice. In June 1985, he was appointed a vice chairman of the Labour Relations Board of B.C., a position he held until his appointment with the Council in 1987.

HEATHER MCDONALD *Vice Chairman*

Ms. McDonald graduated from U.B.C. in 1979 with an LL.B degree and articled with the Legal Department of the Workers' Compensation Board of British Columbia. After a year of studying administrative and constitutional law in Montreal, she returned to Vancouver where she served as Crown Counsel for the Ministry of Attorney General of British Columbia, and as a consultant

to the British Columbia Public Interest Advocacy Centre. In 1983 she joined the Compensation Stabilization Program as legal counsel. In July of 1987 she moved to the Industrial Relations Council where she held the position of legal counsel to the commissioner until her appointment as vice chairman in 1988.

ROCHELLE (SHELLEY) C. NITIKMAN *Vice Chairman*

Ms. Nitikman graduated from the University of Manitoba in 1974 with an LL.B degree and articled with the Vancouver law firm of Shrum, Liddle and Hebenton. She worked as a staff lawyer with the Legal Aid Society of British Columbia, established her own law firm practising family law, and was appointed by the Ministry of Attorney General as a family court advocate. Ms. Nitikman has considerable adjudication experience. In addition to arbitration appointments, she was appointed in 1980 as a chairman of the Workers' Compensation Boards of Review, and in her five year term there adjudicated approximately 4000 cases. Ms. Nitikman was received her LL.M degree from the University of Dalhousie in 1990.

NORA PATON *Vice Chairman*

Ms. Paton graduated from the University of McGill in 1964 with a Bachelor of Nursing degree and from the University of British Columbia in 1976 with a Masters in Education (Adult Education) degree. She has an extensive background in labour relations. Ms. Paton joined the Registered Nurses Association of B.C. in 1969. The labour relations division of the Association subsequently became the B.C. Nurses Union, and Ms. Paton ultimately became its chief executive officer. In her sixteen years with those organizations, she participated in the negotiation and administration of many collective agreements, as well as in the mediation and arbitral processes. In 1980 she was appointed as a part-time member of the Labour Relations Board of British Columbia. In 1986 Ms. Paton was appointed a vice chairman, a position she held until her appointment with the Council.

WALTER PYLYPCHUK *Vice Chairman*

Walter Pylypchuk graduated from the University of Western Ontario with a Bachelor of Laws degree in 1976. He is also a graduate of Brock University, with an honours Bachelor of Arts degree. He engaged in the private practice of law in the St. Catherine's area, representing a number of unions in labour arbitration, and then spent seven years at Canada Post in the practice of labour law in the area of transportation contracting. He joined the Council as a vice chairman in 1989.

EMPLOYER REPRESENTATIVES

JOHN G. JOHNSTON

Assistant Executive Director of Employee Relations at the Prince George Regional Hospital for the past 10 years. In this capacity, he is also involved in the main table negotiations with the B.C. Nurses Union. His prior experience includes Personnel Supervisor for School District #57 (Prince George), and Supervisor, Industrial Relations Department for Firestone Canada Inc. He has also served on several college advisory committees.

MARK LEFFLER

B.C. born and raised. Graduate of U.B.C. - Bachelor of Commerce, 1969. Fifteen years of labour relations experience commencing with Ontario Hydro. Served as Manager of Labour Relations, B.C. Hydro from 1981 - 1986. Presently (from 1986) Manager of Personnel and Industrial Relations, Greater Vancouver Regional District.

BRIGID LUMHOLST-SMITH

Born in Zimbabwe, Harere, immigrating to Canada in 1971. Commencing 1974 she was employed with Kelly Douglas & Co. as Industrial Relations Manager responsible for all industrial relations and personnel matters for union and non-union staff for the B.C. and Yukon region, including the negotiation and administration of collective agreements.

A.J. (TONY) POJE

A veteran B.C. labour relations practitioner who served as an IWA official during the 50's before transferring to management with Crown Zellerbach Canada Ltd. where he eventually rose to the position of Vice-President, Industrial Relations in the 70's. Served for a number of years on the Forest Industrial Relations negotiating committee, and was a Member of the Labour Relations Board (representing employers) from 1984 to 1987. Since his retirement he has acted as an ad hoc consultant in labour relations matters.

GEORGE RICHARDSON

Recently retired General Manager of Bell Pole Company residing in Vernon. Served for many years as Director and Member of the Negotiating Committee of the Interior Forest Labour Relations Association, and prior to that as the Industrial Relations Manager (Southern Interior) for B.C. Hydro. Served as a "fact finder" in the Western Canada Steel and C.A.I.M.A.W. dispute.

PETER RICHARDSON

Former member of the Labour Relations Board, with 25 years labour relations experience in the retail and warehousing industry, both food and non-food products, involving union and non-union employees of Woodwards Stores. He has broad experience in grievance administration including the preparation and presentation of arbitration cases and acting as a member of boards of arbitration.

BOB SAUNDERS

President & General Manager of Smith Bros. & Wilson with more than 30 years in the construction industry. Served as an official with a variety of construction and contractors associations, notably as President of the Amalgamated Construction Association of B.C., the Canadian Construction Association, and Chairman of CLRA (1978). In addition he served as Chairman of the Business Council of B.C. for 1986.

EMPLOYEE REPRESENTATIVES

JACK ADAMS

Former member of the Labour Relations Board, and Director of Personnel Services, B.C. Government Employees' Union, now retired. He also served as a member of the Executive Council of the B.C. Federation of Labour and has many years experience in labour relations in the Provincial Government service.

MONTY ALTON

After many years of service with the local union of the United Steelworkers of America, he rose to the position of International Representative. Based in Vancouver, he held the office of Area Supervisor (encompassing B.C., the Yukon and Northwest Territories) until his retirement. During this time he also acted as a Vice-President of the B.C. Federation of Labour. During Cominco negotiations in Trail and Kimberley he became well-known as the chief negotiator for the Steelworkers.

BRYAN S. DENTON

Served for 25 years with the Retail Clerks Union from 1962 to 1987, rising from the position of Business Agent to that of President. Served on the B.C. Fed Executive Council, the U.F. & C.W. International Advisory Board and Chairman, Board of Trustees - Union Pension Fund - Union Dental fund. He has also served on the Board of Directors for C.U. & C. Health Services Society and B.C. Heart Foundation.

JOHN DONALDSON

Former member of the Labour Relations Board. Served for many years as Business Manager, Teamsters, Local 213. Former Executive Board Member of the B.C. Yukon and Building Trades, and also a member of the Executive Board of the Allied Hydro Council involved in heavy construction in B.C., including the Peace and Columbia Dams and transmission lines.

PAMELA MOORE

Recently served as Operations Director of the B.C. Nurses' Union. A graduate of Kings College Hospital in London, England, Pamela began her career as Assistant Director of Nursing and Assistant Clinical Instructor at a residential children's facility in Slough, England. Upon moving to B.C. she worked as a Head Nurse at Children's Hospital before commencing her employment with the B.C. Nurses' Union in 1979.

KEN SCOTT

Retired official of the Teamsters, Local 213 with 19 years of service. In 1966 he was hired as a Business Representative, elected to the Executive Board as Trustee in 1974 and founding Trustee of Local 213's pension plan. During his career he served as Interior Business Manager and Executive Board Recording Secretary.

III STATUTORY AMENDMENTS

The Labour Code was enacted in 1973 and proclaimed in force in several stages throughout 1974. It has been revised many times since then. Some amendments have involved technical refinements only while others have introduced substantive changes. The Labour Relations Board's past annual reports describe the amendments that were made up to and including the year which was the subject of the particular report, and hence this report will not refer to amendments made prior to 1987. Of all the amending legislation, the Industrial Relations Reform Act 1987, S.B.C. 1987, c.24 introduced the most extensive changes with some 64 sections amending the Labour Code. The title of the Code was then changed to the Industrial Relations Act. The Industrial Relations Council was established to continue the adjudicative operations of the Labour Relations Board and to offer interest dispute resolution services as well. A brief summary of the most significant amendments was contained in the 1987 annual report of the Council and interested individuals are directed to that document.

There was one amendment in 1989 to the Industrial Relations Act, R.S.B.C. 1979, c. 212. Section 123.1, which established the Productivity Fund, was amended by the Budget Measures Implementation Act, 1989, S.B.C. 1989, c. 1, s. 5.

There were no amendments to the Act in 1991.

IV PRACTICE AND PROCEDURE BEFORE THE COUNCIL

There were no procedural memoranda issued by the Council in 1991.

DISPOSITION OF APPLICATIONS

Disposition by the registrar: A large number of cases are decided on a strictly administrative basis. A policy has been implemented whereby the registrar may summarily dispose of certain applications. These include:

* variance applications involving a change in name or address
* applications under Section 96(1) which cannot be resolved by an investigating officer and should be referred back to the parties to be dealt with through the dispute resolution mechanism in their respective collective agreements
* decertification applications under Section 52(8) where no persons have been employed in the bargaining unit for the two year period stipulated and the statutory requirements are otherwise met
* applications for decertification under Section 52(2): ordering a representation vote, and, if no unfair labour practice is alleged, cancelling the certification
* applications for deaccreditation which meet the statutory requirements
* applications to withdraw
* applications under Sections 36 and 108 which are out of time and for which no valid argument for untimeliness is presented
* such other applications as lend themselves to summary disposition

Other Dispositions without a Hearing: Other kinds of cases are also processed without a formal hearing. The application or complaint is investigated by an industrial relations officer of the Ministry of Labour who files a report with the Council. This report, together with the parties' submissions, is reviewed by a panel of the Council. If the matter can be decided upon the basis of the materials on file, a decision is made without a hearing.

In cases which are contested, the Council often attempts to achieve a voluntary resolution before proceeding to the stage of a formal hearing and adjudication. This may involve the efforts of an industrial relations officer or special investigating officer, for example. This policy is especially important in the following areas: unfair labour practice complaints, Section 96(1) disputes, and strikes and picketing complaints. In these areas, the Council achieved a voluntary accommodation in approximately half of the cases.

Hearings: Contested cases which are not settled and which cannot be decided on the basis of the materials on file will be the subject of a hearing before the Council. With respect to applications for certification for units of unorganized employees, a hearing is always held. Section 43(1) of the Act requires that a representation vote ordered by the Council on a certification application must be conducted within ten days of the date of the application. Accordingly, certification applications must be heard expeditiously by the Council, with objections to the application being raised at the hearing. As well, pursuant to Section 2(5) of the Act, where no collective agreement respecting a unit is in force and a complaint is filed with the Council alleging that an employee has been discharged from employment because of the

exercise of a right conferred by the Act, the Council must commence a hearing on the complaint within five days of its filing, unless the complaint is settled or withdrawn before then.

In 1991, the Council held 525 hearings.

Published Decisions: In contested cases that are unresolved by the parties, the Council's general practice is to give written reasons for its decisions. These formal decisions explain the Council's findings to the immediate parties and lay down general guidelines about the Council's policy and interpretation of the Act. The formal decisions are numbered and are made available to unions, employers, legal counsel and other interested persons.

In addition to its formal decisions, the Council issues decisions in letter format from time to time which contain brief reasons or no reasons at all, and which are of no precedential value other than to the parties concerned.

Decisions of the Council which are considered to constitute important precedents for the future are incorporated in a series entitled the Canadian Labour Relations Boards Reports (New Series), which is published by Butterworth & Co. (Canada) Ltd.

V HIGHLIGHTS OF COUNCIL DECISIONS

RELIGIOUS EXEMPTION

In 1991, the Council undertook an extensive review of the religious exemption provision set out in Section 11 of the Act.

> 11. (1) Where the council is satisfied that an employee, because of his religious conviction or belief,
>
> (a) objects to joining a trade union, or
>
> (b) objects to the paying of dues or other assessments to a trade union, the council may order that the provisions of a collective agreement requiring membership in a trade union as a condition of continued employment do not apply to the employee and that the employee is not required to join the trade union, to be or continue to be a member of the trade union, or to pay any dues, fees or assessments to the trade union, so long as amounts equal to any dues, fees or other assessments are paid by the employee to or are remitted by the employer to a charitable organization agreed on by the employee and the trade union or, if the employee and the trade union fail to agree, then to a charitable organization that is registered as a charitable organization in Canada under Part 1 of the Income Tax Act (Canada) and that is designated by the council.

In Justin Wasilifsky and Nancy Wasilifsky, IRC No. C112/91 (reconsideration of IRC No. C169/89, itself a reconsideration of IRC No. C243/88), a seven member panel of the Council (one member dissenting) comprehensively set out the procedure and applicable policies for obtaining a religious exemption from trade union membership and/or dues. Subject to legislative change, the Council and Section 11 applicants will be guided by this decision in the future.

The decision is particularly important because it establishes that an exemption under Section 11 may be obtained where the application is based on religious opposition to a policy or resolution adopted by a single trade union. It is not necessary for an applicant to be opposed to all trade unions; rather, the religious opposition can be to a single union and one offensive policy of that union.

The decision also established that the Council can order exemption from either membership in the trade union, or the payment of dues to the union, or both.

> ...it is the judgment of this Panel that an exemption from trade union membership will be granted where the objectionable policy or trade union activity does not require an expenditure by either the union or its membership, while an exemption from both membership and dues payment will be appropriate where such an expenditure is called for. A dues exemption will be ordered where there is proof of direct financial support or contribution to advancing the objectionable policy or policies. However, it is reasonable to assume that in cases where applicants object to the concept of trade unionism generally...they will receive an exemption from dues in addition to an exemption from membership on the premise that the union does expend funds for collective bargaining and collective agreement administration.
>
> (at 47)

COMPULSORY MEMBERSHIP

This year, the Council once again adjudicated upon the compulsory requirement that teachers join the BCTF in addition to joining the local teachers' association. In Nancy Bourdon, IRC No. C205/91 (reconsideration of IRC No. C120/90), the Council found that the BCTF and the local teachers' associations are not separate organizations.

> Having examined in detail the constitutions, by-laws and membership sign-up requirements of the Union and the BCTF, the one conclusion that we are impelled to draw is that the Union is a chartered local of the BCTF and a constituent part of the BCTF; the two are inextricably linked through interlocking constitutions and for purposes of membership cannot be considered separate and distinct entities. While superficially it may appear that there is a distinction between the two, that impression simply does not survive a close examination. The Union derives its very existence from the BCTF and is required to determine local matters in accordance with the BCTF constitution and by-laws. No clause in the Union's constitution or by-laws may be inconsistent with the BCTF's constitution and by-laws. Thus, the Union is an extension of the BCTF, not an independent entity with a character of its own.
>
> (at 23-24)

It followed from this conclusion that the applicant teachers could not successfully argue they were willing to join the local teachers' association but not the BCTF.

> If they join the Union, they become members of a chartered BCTF local union constitutionally interlinked with the BCTF, and by that act they also become members of the BCTF. The application for membership clearly reflects this. As we said, the situation is akin to that of certain other trade union organizations in which locals are components of larger national and international structures: membership in one denotes membership in the other because one is part of the other.
>
> (at 24)

In IRC No. C205/91, the Council also took the opportunity to comment on the relationship between Sections 5(2), 5.1 and 9.

> Sections 5 and 5.1 both fall within Part 1 of the Act, entitled "Rights of Employees and Employers and Unfair Labour Practices." The purpose of both statutory provisions is to protect individuals, in certain circumstances, from action by trade unions. In many circumstances, though not all, the type of action will be disciplinary action specifically directed against the individual. Section 5 focuses on the Council's authority to oversee internal union discipline and the consequences of union membership generally, while Section 5.1 contains certain prohibitions on the loss or denial of union membership impacting on the terms and conditions of an individual's employment. Under Section 5(2), the Council can examine membership issues and actions of the union against its members to determine if they are for a cause which is in the Council's opinion fair and reasonable; membership is the issue, not a person's employment. Moreover, the standard of review under Section 5(2) has not been diminished by the addition of Section 5.1; rather, it remains as it has always been. Under Section 5.1, the issue is a person's employment. Pursuant to that section, a union can only require an employer to terminate or otherwise discriminate against an employee in respect of employment if the employee

> either acts against the union contrary to the Act or fails to pay periodic dues, assessments or initiation fees uniformly required to be paid by all members as a condition of acquiring or maintaining membership; in all other circumstances, a union cannot require an employer to terminate or otherwise discriminate against an employee because the employee has been expelled or suspended from membership or because membership has been denied or withheld by the union. While Section 9 of the Act permits the parties to insert in their collective agreement a provision requiring membership in the certified or voluntarily recognized trade union as a condition of employment, that provision cannot impact on an employee's employment except where that employee has failed to pay the required dues, assessments or initiation fees or has acted against the union contrary to the Act.
>
> (at 22-23)

CERTIFICATION INAPPROPRIATE

In a rather unusual application this year, the Council had to determine whether it was appropriate to certify a third group of employees at the Italian Cultural Centre in Vancouver. The approximately 80 employees at the Centre were divided into nine different groups, two of which were covered by union certifications another three which were the subject of the application.

In Italian Cultural Centre Society, IRC No. C132/91 (upheld on reconsideration in IRC No. C236/91), the Council agreed the proposed unit was prima facie appropriate but concluded there were strong policy reasons for not certifying the third union.

> If successful, this application will result in three bargaining units with three different bargaining agents amongst a total complement of less than 80 employees; and a significant minority of those employees would remain unrepresented....Three small bargaining units in one location presents far too great a potential for industrial instability. It would also tax the Centre's limited resources to negotiate and properly administer at least three different sets of terms and conditions of employment. If Local 40's application were made on a clean slate, (i.e. there are no other bargaining units at the Centre), it would no doubt have succeeded. Unfortunately, its application is the third at this location and, in my view, it is inappropriate in all the circumstances.
>
> (at 3-5)

MANAGEMENT EXCLUSIONS

When the Children's Hospital in Vancouver reorganized its Special Care Nursery in 1989, an issue arose as to whether or not Nurse Managers should be included in the union's bargaining unit. Prior to the reorganization, the structure of the Nursery included two levels of senior staff, the Head Nurse and the Assistant Head Nurses, both of which were found in the bargaining unit. The reorganization witnessed the elimination of these positions, the Head Nurse being replaced with four Nurse Managers and the Assistant Head Nurses being replaced with Clinical Nurse Leaders. The hospital took the position that the Nurse Managers ought to be outside the bargaining unit because they were part of the "management team", while the union took the position that the Nurse Managers replaced the Head Nurse and consequently should remain in the unit.

In Children's Hospital, IRC No. C58/91 (reconsideration of IRC No. C159/90), the Council pointed out the key determinant in deciding whether a person is included in or excluded from a bargaining unit is not the agreement of the parties but rather the legal status of the person as determined by the application of Sections 1(1) ("employee") and 34 of the Act. The fact the hospital and the union had previously agreed that the Head Nurse was to be included in the bargaining unit did not dictate that Nurse Managers exercising essentially the same duties and responsibilities as the Head Nurse must also be included in the unit. Moreover, the test as to whether to exclude someone formerly included in the bargaining unit by agreement of the parties was not whether there existed a "clear potential for conflict."

> Intolerable conflict is not the standard necessary for exclusion from the bargaining unit and has no basis at law. Rather, the question is whether a person "is employed to, and does exercise the functions of a manager or superintendent in the direction or control of employees." It is a function of the specific circumstances of a particular case....And it is the task of the Council to examine the facts of each contested application and to determine in accordance with criteria set out in cases such as District of Burnaby [BCLRB No. 1/74, [1974] 1 Can LRBR 1], and B.C. Ferry Corp. [BCLRB No. 65/78, [1979] 1 Can LRBR 116], whether or not the person affected by the application is an employer (manager) or employee for the purposes of the Act. Finally, it is acknowledged that it is a subjective determination which does not rest, alone, on one factor....While the Legislature shied away from fixed criteria to determine exclusions, the factors set out in B.C. Ferry Corp., supra, are largely determinative of status under Section 1(1)(a). They include today, as they did then: supervising work; discipline and discharge; hiring and promotion; independence of operation; supervising subordinate supervisors; labour relations input; evaluating employee performance; ordering overtime; policy setting; and authorizing leave. We reiterate the view expressed in B.C. Ferry Corp., supra, that these criteria are not simply a checklist to be mechanically applied, however they constitute a sound basis for evaluating duties and responsibilities and arriving at an intelligent judgment in the matter, namely whether a person is exercising the functions of a manager in the direction or control of employees. Indeed, this echoes the position of the Union that "management over other employees" is the key to a management exclusion.
>
> (at 12)

In Children's Hospital Society, IRC No. C80/91 (upheld on reconsideration in IRC No. C141/91), the Council followed these principles and concluded the Nurse Managers were part of the "management team"; as a result, they were excluded from the union's bargaining unit.

WESTERN CANADA STEEL

Last year's Annual Report reported extensively on the Council's decision in Western Canada Steel, IRC No. C242/90. This year, the union applied for reconsideration of that decision: this resulted in IRC No. C185/91.

The dispute involved a number of unfair labour practice allegations which flowed from the closure and ultimate sale of Western Canada Steel (WCS). In the course of collective bargaining, WCS locked out its employees and two days later, on July 8, 1988, it announced the closure of the operation effective September 9. At that time, WCS was owned by Cominco. On August 22, it was announced that Cominco had agreed to sell the shares of WCS to IPSCO; this sale was completed on November 10. The original panel found IPSCO's intention behind

purchasing the shares of WCS was not to operate the business but rather to liquidate the assets.

The original panel dismissed all the union's complaints against WCS. The panel concluded WCS had not breached its duty to bargain in good faith in July, nor in December of 1988, when, under the ownership of IPSCO, it proposed certain pre-conditions for the resumption of negotiations to reopen the closed steel mill. The panel also concluded that WCS was not motivated in whole or in part by an intention to cause decertification of the union, when it locked out its employees in July.

The union advanced four grounds for review in its reconsideration application but the reconsideration panel was not convinced that the original panel had committed any reviewable errors.

The union's first argument was that it had been denied a fair hearing because the original panel failed to consider whether WCS' decision to close the mill was motivated, in part, by a desire to interfere with the union's representation by promoting decertification. The facts revealed that in late July, WCS had given a list of the employees in the bargaining unit to two employees who were seeking support for a decertification application. The reconsideration panel was of the opinion that the original panel had considered this argument and had found that the delivery of the list was not sufficient to establish that one of WCS' motives in closing the mill was a desire to interfere with the administration of the union. The reconsideration panel also found that the union was not denied a fair hearing on the basis of the original panel allegedly committing minor errors of fact because they were not critical.

The union's second argument was that the original panel erred when it found no collective bargaining took place between the union and WCS (IPSCO) in December when discussions were held concerning the reopening of the mill. The reconsideration panel adopted a broader definition of collective bargaining and concluded that on the facts, bargaining between the parties did take place in December. However, this argument was dismissed in any event because the original panel correctly concluded, in the alternative, that WCS (IPSCO) did not breach the Act and the union did not challenge that conclusion.

The third ground upon which the union based its reconsideration application was that the original panel misinterpreted the law with respect to the doctrine of illegality in its application to the Section 6 duty to bargain. The union alleged that two of WCS' collective bargaining proposals were illegal and should have amounted to breaches of the Act. The original panel declined to consider the illegality of these proposals on the basis that it was not necessary to do so in the context of the case. The reconsideration panel upheld this conclusion.

> The Council will not look at any one proposal nor will it consider one particular series of meetings in deciding whether a party has breached its duty to bargain in good faith: these matters must be viewed in the context of collective bargaining as a whole....We reject the argument that the "doctrine of illegality" holds that illegal bargaining proposals are, in themselves, a breach of the Act. None of the cases cited by Local 6 support the argument that proposing or wishing to discuss an "illegal" term is a breach of the duty to bargain in good faith. Indeed, Local 6's entire argument was based on cases where insistence on an illegal term was at issue....While WCS set certain pre-conditions to collective bargaining, the decision indicates all of those conditions were either dropped, amended or agreed to before negotiations collapsed.
>
> The original panel concluded that the impugned proposals did not lead to a collapse in negotiations. It follows that had they been central to an impasse in collective bargaining the Council would have inquired into their legality. If they were found to be illegal, an appropriate remedy would have been forthcoming.

> Similarly, had Local 6 argued bargaining broke down over WCS insistence on such proposals, the original panel would have considered the issue of illegality. Local 6 did not maintain that position before either the original or the reconsideration panel.
>
> We agree with Local 6 that proposing illegal terms may be indicative of bargaining in bad faith. Again, however, the findings of fact made by the original panel in considering the conduct of the parties over the entire period, suggest no such conclusion. WCS negotiated exclusively with Local 6 until January 1989 when negotiations broke down permanently.
>
> (at 29, emphasis in original)

Finally, the union challenged the original panel's dismissal of the argument that the lockout in July was motivated, at least in part, by a desire to deprive employees of severance pay that may be owing under the Employment Standards Act. The original panel found that WCS wanted to use severance pay as leverage to negotiate an orderly shutdown agreement with the union; it was not motivated by a desire to save the cost of severance pay. The union argued that it was illegal and violates Section 6 for WCS to deprive the employees of a right to severance pay by a lockout. The reconsideration panel disagreed. A lockout is unlawful if it attempts to dissuade employees from exercising rights under the Act but lawful if it applies economic pressure in order to achieve a collective agreement.

> Had the lockout been intended to provoke decertification of Local 6 or to punish the employees for supporting Local 6, its improper purpose would have been an unfair labour practice and, an otherwise legal lockout would have been illegal. On the other hand, the fact the lockout may have foreclosed statutory rights under the Employment Standards Act, thereby putting economic pressure on the employees to negotiate an orderly shutdown agreement, is entirely lawful.
>
> (at 33)

The Council thus dismissed the union's application for reconsideration. The union has subsequently applied for judicial review of the Council's decisions in Western Canada Steel and a hearing in Supreme Court is expected sometime in 1992.

PART 5

Ally Declaration

In Westland Carriers Ltd., IRC No. C94/91, the employees of Lafarge Canada were on strike and the union which represented them asked the Council for a declaration that Westland was an ally of Lafarge and for permission to picket Westland. Lafarge produced cement and Westland delivered the cement with its trucks pursuant to a written agreement with Lafarge. The agreement provided that in the event of a strike or labour disruption, the party delayed from performing its obligations under the agreement was to use reasonable diligence to remove the cause of the delay. The only work Westland performed was hauling cement for Lafarge and many of Westland's trucks were identified with Lafarge logos even though they were all owned by Westland's parent company, Trimac Transportation Services.

When Lafarge's unionized employees went on strike, Lafarge continued to operate with the help of its salaried employees. Various trucking companies who had been picking up cement prior to the strike continued to pick up the product despite the Lafarge pickets, but the unionized

employees of Westland refused to drive their trucks across the Lafarge picket line. Westland subsequently hired outside persons to drive the trucks back and forth across the picket line. Once the loaded trucks were away from the picket line, the regular unionized employees of Westland took over and delivered the cement to the intended destination. The union became aware of this activity and it attempted to prevent it through the use of physical obstruction.

The Council was not persuaded that Westland had provided any undue assistance to Lafarge which would cause it to become an ally of Lafarge. The panel found that there was no evidence of any collaboration between the two companies and it concluded that Westland's hiring of outside drivers was not an extraordinary act, particularly when Westland accurately anticipated tortious conduct on the picket line which could conceivably endanger its valuable equipment and the well-being of the drivers.

> In this case, I have concluded that Westland used the minimum amount of best effort which it was obliged to do within the framework of its contractual relationship with Lafarge. It did not materially alter its business relationship with Lafarge. Any changes which were made were in the nature of bare minimum operating changes which it was compelled to make by all of the attendant circumstances in order to simply maintain its existing business relationship with Lafarge. Any assistance which resulted from the maintenance of that relationship was not undue by any means.
>
> (at 16)

Unfair Declaration

Another Part 5 decision which arose out of the strike at Lafarge Canada was Lafarge Concrete, IRC No. C120/91 (upheld on reconsideration in IRC No. C4/92). Lafarge Concrete is a division of Lafarge Canada, as is Lafarge Cement, the employees of which were the ones who were on strike. During the labour dispute, Lafarge Concrete continued its practice of purchasing cement to make its concrete from Lafarge Cement. In response to the ongoing strike, the Building Trades Council issued an unfair declaration against Lafarge Cement and its products. This declaration was having a substantial effect on Lafarge Concrete and as a result, it applied to the Council for relief.

The Council pointed out that in order for it to declare an unfair declaration valid and enforceable under Section 90, it must be satisfied that the declaration is consistent with the intent and purpose of Part 5 of the Act. In order to make that determination, the panel had to decide the extent to which the picketing provisions in Section 85, specifically Section 85(6), limited the permissible scope of an unfair declaration.

> 85. (6) For the purposes of this section, divisions or other parts of a corporation or firm shall, if they are separate and distinct operations, be treated as separate employers.

The parties agreed that Lafarge Concrete and Lafarge Cement were "separate and distinct operations" but the Building Trades Council argued that the opening phrase of Section 85(6), "For the purposes of this section," limited the applicability of Section 85 to picketing, and did not affect the scope of unfair declarations under Section 90. The panel disagreed. The picketing provisions in Section 85 are included within Part 5 and therefore, they must be considered in a Section 90 determination. Moreover, the jurisprudence reflects that an unfair declaration, in order to be valid, must be consistent with the picketing provisions. Also, the legislative intention, as expressed in the 1984 and 1987 amendments, is to insulate the non-struck operations of a struck employer from the effects of a labour dispute. Finally, the panel pointed out that if the position of the Labour Relations Board prior to the 1987 amendments

was not to permit unfair declarations to overarch its picketing orders (Westar Construction Corp., BCLRB No. L34/81), then the same result must occur where the Legislature itself mandates that non-struck divisions of a struck employer be insulated from the effects of a labour dispute.

The reconsideration panel agreed with this reasoning and also drew additional support from the Council's order restricting the employees of Lafarge Cement from picketing at Lafarge Concrete's locations.

> If an unfair declaration is to be consistent with the intent and purpose of Part 5, it cannot be inconsistent with the picketing provisions of the Act. Stated very simply, if the Unions' argument were to prevail, picketing impermissible under Section 85 would be permissible under Section 90. In this dispute, if the panel had concluded that the unfair declaration was valid and enforceable, it would have undermined the Council's decision of May 27, 1991, restricting the members of the Cement Workers from picketing at Lafarge Concrete's locations. If the Cement Workers could not exert economic pressure on Lafarge Cement by picketing one of its customers (Lafarge Concrete), then that same pressure could not be exerted on Lafarge Cement through an unfair declaration which was substantially affecting Lafarge Concrete's ability to operate its business; to reach any other conclusion on the unfair declaration as it impacted on Lafarge Concrete would be inconsistent with Part 5 of the Act.
>
> (at 9)

As a result, the Council concluded that the substantial effect which the unfair declaration was having on Lafarge Concrete was not consistent with Part 5 of the Act and therefore, the declaration was void and unenforceable to the extent it had been applied to Lafarge Concrete.

Federal/Provincial Jurisdiction

As a result of a Part 5 application, the Council, in Holnam West Materials Ltd., IRC No. C192/91, had to determine whether certain pickets on the water were within the jurisdiction of the Council. This provided an opportunity for a detailed review of the law respecting federal/provincial jurisdiction. It was concluded that the proposed picketing, even though the proposed pickets may have been situated on navigable waters under federal control, was entirely within the jurisdiction of the Council. This was because the dispute between the parties giving rise to the picketing was entirely a provincial labour relations dispute. Thus, on the application of the "origin of dispute" theory, the federal jurisdiction did not arise. In addition, the picketing was directed exclusively at a provincial undertaking.

INTERIM ORDERS

This year, the Council was asked to adjudicate numerous disputes involving the motion picture industry. In one particular instance, several unions sought interim orders part way through the hearing of their applications. The unions had applied for declarations that collective agreements had been entered into between the unions and the employer and that these collective agreements were in full force and effect. The applicants also requested an order for damages resulting from the employer's breach of these agreements. The interim relief applications requested an order requiring the employer to post security for damages as well as an order restraining the employer from employing individuals in violation of the collective agreements the unions alleged were in effect. The unions based their applications for interim relief essentially on the ground that the matter was urgent. In the film industry, the accepted practice is for a production company to create and incorporate a separate provincial production

company specifically for each film and when the film production is complete, the separate provincial production company ceases to exist. Obviously, one of the reasons the unions sought interim orders was to ensure that adequate monetary relief was available in the event they were successful at the end of the lengthy hearing.

In Fast Car Co. Inc., IRC No. C146/91, the Council extensively reviewed its jurisdiction and procedure for granting interim orders but was not persuaded that any interim relief was appropriate in the circumstances of this dispute. The evidence of urgency was lacking because the unions did not apply for interim relief in their initial applications nor at the beginning of the hearing, and yet they were well aware of all the facts and requirements necessary to support interim order applications, including the fact that production on the film had already commenced. Moreover, the balance of convenience did not favour the unions' applications. Requiring the employer to hire members of the unions, or restraining the employer from employing individuals who are not members of the unions, would certainly hamper the employer and alter the status quo, as would an order requiring the employer to post a substantial amount of money as security for damages. Finally, the panel examined the unions' prima facie case and did not find it to be that strong. The unions were alleging the existence of a collective agreement on the basis of oral commitments by the employer, and yet the definition of collective agreement in the Act expressly requires a "written" agreement. For these reasons, the panel dismissed the unions' applications for interim relief.

SECTION 108

Home Work

The question of whether an employer could schedule work at an employee's home was canvassed in Simon Fraser University, IRC No. C41/91 (reconsideration of IRC No. C133/90). The collective agreement contained no provisions addressing home work but by agreement with the employer, the employee performed his duties on the computer system in the employer's library by operating a remote terminal and printer at his home. The union objected to this arrangement, arguing that the employer had to negotiate a specific right to this practice. An arbitrator concluded the employer could, without the union's consent or agreement, schedule work at employees' homes and enter into private agreements with employees concerning home work.

The union appealed to the Council under Section 108(1)(b) alleging the arbitrator's award breached the collective agreement and the union's exclusive bargaining agency. The Council found that the concept of exclusive bargaining agency was an implied term of the collective agreement and that the arbitrator had misapplied the concept when it concluded the employer was free to enter an agreement with the employee concerning home work. Such agreements are permitted only where they fall under the routine administration of a collective agreement; however, in this case, home work was not considered to be a matter of routine administration. The Council also concluded that "management responsibilities" meant the authority which the employer must possess in order to effectively run its business. The panel then contrasted this concept with the union's exclusive bargaining authority.

> ...the original panel adopted the following position which the Council endorses: This Panel cannot subscribe to a theory of exclusive bargaining authority which deprives an employer of the residual power to unilaterally impose terms and conditions of employment in the absence of an agreement with the union. The practical consequences of adopting such a theory would be labour relations chaos. The employer would be compelled to include in the collective agreement every matter which may, even theoretically, touch upon the employment relationship.

> Elaborating on that theme, an employer may assign an employee to work at any location, subject to the constraints of the collective agreement (if one exists). The fact that the work location is the employee's home does nothing to modify or dilute that proposition. This Panel believes it is notorious that certain classes of employee perform work or elements of it at home, at times on their own initiative. It may be less common but it is by no means unusual for employees to perform the bulk of their work at or out of the home, but when this occurs it is often with the tacit approval of their employer, or by agreement with their employer. Finally, the employee may receive a formal direction from the employer to work at or out of his home. The permutations of these work arrangements are many and varied, depending upon the character of the work, the degree of decentralization of the organization, geography, and the degree of independence of the employee concerned, among other things. The advent of the personal computer and its ubiquitous nature has no doubt led both to an alteration in work patterns and an increase in home work in some instances, and this development may well lead to fresh debates at the bargaining table over the matter. If a union seeks to limit an employer's responsibilities in this area, the collective agreement between the parties may be altered to reflect this.
>
> (at 12-13)

Accordingly, the Council held that the employer was entitled to assign work at home to the employee but it was not permitted to enter into an agreement with the employee concerning home work. The union has sought judicial review of this decision and a hearing in Supreme Court is scheduled in early 1992.

Public Sector "Interest" Arbitration

In Douglas College Board, IRC No. C216/91, the Council reviewed an arbitration award under Section 108 but concluded that the arbitration that the parties created was a public sector "interest arbitration" as defined by Section 137.95(1). Section 108 is in Part 6 of the Act, entitled "Arbitration Procedures," and Section 137.95(1) is in Part 8.1 of the Act, entitled "Disputes Resolution."

The college and the union had entered into a collective agreement after protracted collective bargaining and a 24-day strike. As part of the resolution of the strike, the parties agreed to a letter of understanding which addressed faculty workload issues. The letter of understanding was attached to the collective agreement and it stipulated that workload issues which could not be settled by a task force would be referred to the arbitrator who had the jurisdiction of a Part 6 arbitrator and the power to alter the terms of the collective agreement as set out in the letter of understanding. The task force failed to resolve any of the workload issues; accordingly, all were referred to the arbitrator who concluded that the arbitration proceedings established by the letter of understanding were pursuant to Part 6, and not Part 8.1, such that he was not required by law to apply the "ability to pay" imperatives contained in Section 137.96.

The Council found that the arbitrator erred in this conclusion because he failed to interpret the provisions of Part 8.1 to see if they applied to the arbitration. As the letter of understanding revealed, the parties agreed that the arbitrator had the jurisdiction of a Part 6 arbitrator; the issue was whether Part 8.1 applied and in order to make that determination, Section 137.95(1) had to be analyzed and interpreted. The arbitrator failed to do so and therefore, it could not be said that the arbitrator properly applied all of the provisions of the Act.

In addition, the panel concluded that the workload arbitration created by the letter of understanding was a "public sector interest arbitration."

> The Act provides a definition of what constitutes an "interest arbitration" in the public sector. If the parties have created an arbitration which falls within the definition set out in Section 137.95(1), then the imperatives in Section 137.96 must be applied. If the intentions of the parties were to exclude the application of Part 8.1 (a point I do not accept) with the reference to Part 6 in [the letter of understanding], it was an agreement they were not empowered to make. Section 65(3) clearly establishes that parties cannot enter into an agreement which conflicts with the Act.
>
> (at 17, emphasis in original)

The panel thus remitted the award to the arbitrator to complete it by applying the "ability to pay" imperatives in Section 137.96.

Arbitration Costs

When a group of approximately 60 out of 115 sessional psychologists appeared before an arbitration board appointed by the union and the employer to determine whether these psychologists were employees in the union's bargaining unit, the board granted them intervenor status and at the end of the hearing, required them to pay one/fifth of the chairman's costs. The intervenors applied for review of the award under Section 108, claiming, among other things, that the requirement to pay costs was contrary to the law and policy of the Act.

In Government of the Province of British Columbia, IRC No. C162/91, the Council concluded the arbitration board did not have the jurisdiction to require the intervenors to pay a portion of the costs of the chairman.

> [Section 99(1)(c) of] the Act expressly requires the costs of the arbitration proceedings to be equally shared between the parties to the arbitration, that is, the employer and the trade union who are parties to the collective agreement, unless the collective agreement's arbitration provision, or such a provision as modified by the minister, provides otherwise. The Act refers to no other exception. In particular, there is no allowance for arbitral discretion on the matter....The Sessionals do not come within the phrase "party to an arbitration" in Section 99 of the Act. There is also no provision in the parties' collective agreement regarding intervenor participation in an arbitration and a requirement to share in the costs of an arbitration proceeding. Section 99(1)(c) of the Act requires, therefore, that the Union and the Employer equally bear the fees and expenses of the chairman of the arbitration board.
>
> (at 18-20)

Probationary and Temporary Employees

In Honeywell Limited, Protection Services Division, IRC No. C196/91, and British Columbia Rapid Transit Company Ltd., IRC No. C197/91, the Council reviewed arbitration awards involving the employer's dismissal of a probationary employee and a temporary employee. The decisions brought into question the interpretation and application of Section 93(1).

> 93. (1) Every collective agreement shall contain a provision governing dismissal or discipline of an employee bound by the agreement, and that or another provision shall require that the employer have a just and

> reasonable cause for dismissal or discipline of an employee; but this section shall not prohibit the parties to a collective agreement from including in it a different provision for employment of certain employees on a probationary basis.

The Council found that temporary employees are employees under the Act and therefore, they have the protection of the just and reasonable cause provision of this section.

> In applying the just and reasonable standard of cause to the termination of a temporary employee, an arbitrator must consider the collective agreement as a whole in order to assess the degree of permanence provided to such an employee; terms governing the length of employment, the accrual of seniority and preferential rights to apply for regular job postings are among the factors an arbitrator should consider. So long as the employer terminates a temporary employee's employment consistent with the basis upon which he/she was hired and employed, the just and reasonable cause provisions of Section 93 are fulfilled.
>
> (C197/91 at 7)

As for probationary employees, the Council acknowledged that Section 93(1) specifically contemplates that the parties to a collective agreement can negotiate any standard of review for dismissal and discipline; however, the section does not suggest the parties can agree on absolutely no standard of review at all. An employer cannot have an absolute unfettered discretion to terminate or discipline a probationary employee.

Moreover, with both a temporary and a probationary employee, Section 93(1) requires an arbitrator to make a "qualitative assessment" of the reasons for the employer's decision to discipline or dismiss the employee. An arbitrator must ensure the employer has not acted in an arbitrary, discriminatory or bad faith manner in exercising its discretion to terminate or discipline a temporary or probationary employee. While the employee's status may significantly affect the standard of review, the fact some review is required by the Act does not change because the employee is temporary and/or probationary.

COUNCIL AS ARBITRATOR

In Sawarne Lumber Co. Ltd., IRC No. C161/91, the Council was asked by the employer and the IWA to act as an arbitrator pursuant to Section 96 of the Act. The employer had imposed a 30 day suspension on an employee for his role in an illegal walkout of the employer's work force. In response to the walkout, the employer applied to the Council for various declarations and orders; however, the parties were able to resolve the work stoppage by a settlement agreement, one provision of which requested the Council to assume the role of arbitrator and determine whether the employee's behaviour warranted any form of discipline and, if so, whether the penalty was excessive in the circumstances.

The panel heard evidence over two days and concluded the employee's conduct was the precipitating cause of the illegal strike. As a result, the employer had just cause for discipline. As for the discipline imposed, the panel found that the 30 day suspension was excessive in all the circumstances. Instead, it was of the opinion that a 20 working day suspension was appropriate. Neither of the parties sought review of this arbitration award of the Council.

VI JUDICIAL REVIEW

There follows a list of court cases decided in 1991 which reviewed decisions of the Council.

1. Kamal Baig v. Industrial Relations Council, British Columbia Government Employees' Union and Government Personnel Services Division (8 January 1991), Vancouver A904107 (B.C.S.C.).

Prior to the Council rendering a decision on his Section 7 application, the petitioner commenced judicial review proceedings alleging that the Council had violated Sections 6 and 7 of the Charter by failing to render a decision on his application. The Council rendered a decision prior to the hearing of the petition. Accordingly, the Court dismissed the petition on the basis that the Court did not possess the jurisdiction to entertain it until the appeal process under the Act had been completed.

2. Vancouver Municipal & Regional Employees' Union v. Industrial Relations Council and Vancouver Museum & Planetarium Association (10 May 1991), Vancouver A910526 (B.C.S.C.).

The union sought judicial review of a second reconsideration decision of the Council. The original panel had found, after examining the employer's payroll records for 1980, that the certification granted to the union that year did not extend to include employees in a cafeteria which is now but was not then operated by the employer. The first reconsideration panel decided, after hearing fresh evidence, that the employees were to be included in the bargaining unit. The second reconsideration panel restored the original panel's decision, ruling that the interpretation or clarification of a certification order was a question of law and that the original panel had been correct in deciding on the basis of the payroll records for 1980 that, at the time the certification order was issued, the employer was not employing any cafeteria employees. On judicial review, the union claimed that the second reconsideration panel erred in holding that the interpretation or clarification of a certification order was a question of law. In the alternative, the union claimed that the decision was patently unreasonable. The Court disagreed with the union's position and dismissed the petition. The Court found that the determination of the scope of a certification lies logically at the heart of the exclusive jurisdiction of the Council under Section 34, and consequently, it was open to the Council to decide the manner in which its certification orders are to be interpreted to determine their scope. Certification orders of the Council are analogous to court orders. The term of the original certification order, being a matter of law, was decided when the certification was granted and the order is conclusive evidence of its legal consequences. Accordingly, the original panel was entitled to examine the payroll records at the time of the certification in order to interpret the scope of the certification order and the first reconsideration panel was not entitled to hear fresh evidence years after the granting of the certification to contradict the record. The Court thus concluded that the second reconsideration panel did not err in law when it concluded that the interpretation or clarification of a certification order is a question of law. The Court added that if it was mistaken in this conclusion, it was nevertheless of the opinion that the decision of the second reconsideration panel was not patently unreasonable. That panel's interpretation was a rational one and it was not open to a court to substitute its view of the law for that of the Council; the doctrine of curial deference applied.

3. Canadian Association of Industrial Mechanical and Allied Workers, Local 19 v. International Union of Operating Engineers, Local 15, and Tunnel and Rock Workers' Union, Local 168, and Westmin Resources Limited and Industrial Relations Council (10 June 1991), Vancouver, A911661 (B.C.S.C.).

This review constituted another episode in a long-standing certification dispute between CAIMAW and the Unions. Following the Court of Appeal's decision in July of 1990, the Unions' application (of November 1987) to raid CAIMAW's certification was granted by the

Council on October 12, 1990. CAIMAW subsequently applied a few days later to raid the Unions' certification claiming that the no raid certification period fixed by Section 39(3) ran from November 1987 and not, as the Unions claimed, from October 12, 1990. The Council read the words of Section 39(3) in their ordinary grammatical meaning and the result was that the effective date for which the no raid certification period ran was from October 12, 1990. CAIMAW's application was thus dismissed as being untimely. CAIMAW sought judicial review of this conclusion but the Court held that the Council's interpretation of Section 39 was correct. CAIMAW has since appealed this decision to the Court of Appeal and a hearing is set for March of 1992. The Council succeeded in its request that the Chief Justice assign a five-person bench for this appeal on the basis that the Court of Appeal's July 1990 decision involving these parties conflicts with a subsequent decision of the Court as to the appropriate standard of review to be applied.

4. Hospital Employees' Union, et al. v. British Columbia Society of Respiratory Therapists and Industrial Relations Council et al. (27 June 1991), Vancouver CA012556 (B.C.C.A.).

The H.E.U. appealed the Supreme Court's dismissal of its petition for judicial review of the Council's decision under Section 34(1)(l) allowing the B.C. Society of Respiratory Therapists to move respiratory therapists from the H.E.U. bargaining unit to the H.S.A. bargaining unit. The H.E.U. argued that the Council did not have the authority to move the employees under Section 34 and that the Council lacked the jurisdiction to consider the application because the Society was not a "person" within the meaning of the Act. The Court of Appeal agreed essentially with the reasons of the Supreme Court and dismissed the appeal. Section 34(1)(l) gives the Council the jurisdiction to decide upon changes in membership in bargaining units and a broad definition of "person" is in harmony with the context and objectives of the Act, particularly in view of the specific inclusion of "society" in the definition of "person" in the Interpretation Act. The Court added that the "Council is the master of its own procedure. If someone it considers a mere busybody or intermeddler makes an application under Section 34, the Council can decline to hear the application. Plainly, here the Council did not consider the Society a mere busybody."

5. Fair Laundry Services Ltd. v. Teamsters, Local No. 213 and Industrial Relations Council (15 November 1991), Vancouver A913120 (B.C.S.C.).

The employer applied for judicial review of the Council's decision under Section 8(4)(e) granting certification to the union without a representation vote by the employees and in the absence of any formal certification application by the union. In the application before the Council, the union had alleged that the employer had committed several unfair labour practices and as a remedy, it sought automatic certification pursuant to Section 8(4)(e) without setting out the particular bargaining unit description it was seeking to represent. The Council found that the employer had committed unfair labour practices and it granted the Section 8(4)(e) remedy without commenting on the appropriateness of the bargaining unit and without expressly stating any findings of fact as to the identity of the unit. The employer claimed that the Council, in granting the automatic certification in this manner, acted in excess of its jurisdiction, or alternatively, it interpreted the provisions of the Act in a patently unreasonable manner, or it breached the rules of natural justice. The Court dismissed the employer's application, concluding that there was no basis upon which it could properly interfere with the Council's conclusion. The jurisdiction conferred by Section 8(4)(e) is remedial in nature and there is no stipulation or requirement that the formal certification procedures, as set out in Part 3 of the Act, need be followed or adhered to before the remedy can be granted. The employer was aware that the union applied for automatic certification, it could not have been in any doubt as to the employees for whom the union sought certification, and it had ample opportunity to make representations on the appropriateness of the unit which could be certified under Section 8(4)(e). Moreover, the Council had evidence before it to support the particular certification which it granted and it implicitly found that those employees for whom the union

sought certification comprised an appropriate unit. Thus, the Court found that the Council had jurisdiction to grant the remedy and its interpretation of Section 8(4)(e) was not patently unreasonable nor a violation of the rules of natural justice. The Court confirmed the fact that a "remedial certification" may be granted in the absence of an application for certification.

VII CASELOAD

In describing the tribunal's caseload during 1991, the Disputes Resolution Division will be examined separately from the Adjudication Division. The statistical assumptions upon which caseload data are based are described on page 45 as a preface to the Appendix of Statistical Tables.

ADJUDICATION DIVISION

A. 1990-91 COMPARISONS

In 1991, the Council received a total of 3,176 applications and disposed of 3,390 applications. As explained in the preface to the Appendix of Statistical Tables, the statistical base for counting strike and lockout observer appointments was changed in 1988. In 1989, the category previously reported in a footnote, "To file an Order in the Supreme Court" was added to Table 1.

Applications Filed

In 1991, applications filed with the Council increased from 1990 in 15 of the 31 categories, illustrated in Table 1:

applications for first contract arbitration (600% - from 1 to 7), for an order prohibiting a secondary boycott (200% - from 1 to 3), for an "offer last received" vote (110%), for a declaratory opinion (excluding declaratory opinions pertaining to Part 5 of the Act) (19%), to review an arbitration award (14%), to appoint a strike or lockout vote observer (14%), for the appointment of an officer to settle a grievance (13%), to cancel a voluntary recognition collective agreement (11%), to vary a certification (9%), classified as miscellaneous (8%), regarding an alleged failure to execute or comply with a collective agreement (7%), for an interim order (6%), to cancel a certification (5%), alleging unfair labour practices (1%) and applications regarding freedom of association (from 0 to 1).

Applications filed with the Council decreased from 1990 in 15 categories, illustrated in Table 1:

to cancel an accreditation (100%), to appoint a fact finder (100%), for essential service designations (89%), to alter the terms and/or conditions of employment (50%), to vary an accreditation (43%), for a common employer declaration (41%), for an interpretation of the legislation as it applies to the collective bargaining relationship (38%), regarding strike, lockout or picketing activity (28%), regarding alleged unlawful alteration of employment terms and conditions (27%), for religious exemption (24%), for reconsideration of a decision (21%), to file an order in the Supreme Court (16%), for a successor status declaration (16%), for certification (6%) and for the appointment of an arbitrator (2%).

Applications Disposed Of

In 1991, applications disposed of by the Council increased from 1990 in 12 of the 31 categories, illustrated in Table 1:

for an "offer last received " vote (110%), for first contract arbitration (50%), for successor status declaration (48%), to cancel a certification (48%), to vary a certification (47%), for the appointment of an officer to settle a grievance (17%), for the appointment of a strike or lockout

vote observer (13%), for an interim order (13%), to review an arbitration award (7%), classified as miscellaneous (5%), alleging unfair labour practices (2%) and to cancel an accreditation (from 0 to 1).

Applications disposed of by the Council decreased from 1990 in 17 categories shown in Table 1:

to appoint a fact finder (100%), for essential service designations (90%), applications for a common employer declaration (58%), to alter the terms and/or conditions of employment (50%), regarding freedom of association (50%), to vary an accreditation (40%), regarding strike, lockout or picketing activity (34%), to file an order in the Supreme Court (26%), regarding alleged unlawful alteration of employment terms and conditions (21%), for reconsideration of a decision (18%), for religious exemption (17%), to cancel a voluntary recognition collective agreement (10%), for the appointment of an arbitrator (6%), for a declaratory opinion (excluding declaratory opinions pertaining to Part 5 of the Act) (6%), for certification (5%), regarding an alleged failure to execute or comply with a collective agreement (3%), and for an interpretation of the legislation as it applies to the collective bargaining relationship (1%).

B. CASES DEALT WITH IN 1991

Certification of Bargaining Agents

A significant aspect of the Council's workload involves applications for certifications under Section 39 of the Act, which contemplates three different kinds of applications. Under Section 39(1), a trade union may seek certification for a group of previously unorganized employees, i.e. those not subject to an existing certification. Sections 39(2) and 41(2) provide that a trade union may apply to be certified for a group of employees already represented by another union; these applications are commonly described as "raids." And Section 39(5) makes special provision for a joint application for certification by a number of unions.

The Council received 409 certification applications in 1991, a decrease of 26 from the applications received in 1990. The Council disposed of 415 certification applications in 1991, representing a decrease of 24 from the applications processed in 1990. Of the 415 applications processed in 1991, 69 were withdrawn or not proceeded with, leaving 346 to be formally decided by the Council. Of these, 315 involved previously unorganized employee groups or partially organized employee groups where the union sought to represent an all-employee unit.

Of the 315 applications under Section 39(1), a total of 88 were dismissed. A vote was held on 299 of the 315 applications, and for 72 applications (24%) the result was to leave the employees without any union representation. In another two cases, the application was unsuccessful because the employees voted for another applicant union.

The Council disposed of another 31 certification applications in respect of employees in bargaining units totally represented by another union. This number represented about 9% of the total certification decisions in 1991. All of these applications were contested and involved entire bargaining units. The applicant union was successful in obtaining certification in 17 of the 31 cases.

Thirteen applications pursuant to Section 39(5) of the Act (joint applications for certification by a number of trade unions), were filed with the Council in 1991.

As well, two construction project certifications were issued by the Council pursuant to Section 45(1).

In 1991, applications under Section 39(1) involved 6,856 employees, of whom 4,166 obtained union representation. By contrast, inter-union contests under Section 39(2) involved 2,281 employees, with a resulting change in union representation for 1,247 of these employees. A review of Council files indicates that of the total 31 cases and 2,281 employees, only one inter-union contest resulted in more than one application.

This contest was between the Service Workers Union of B. C. and the Service Employees' International Union and produced four applications involving a total of 35 employees (2%).

In 1991, the number of employees benefiting from certification orders was 5,413, a decrease from the 5,917 employees receiving certification in 1990. The number of employees involved in a contested change of union representation decreased from 1,530 in 1990 to 1,247 in 1991.

Unfair Labour Practices and Remedies

Sections 2, 3, 4, 5, 5.1, 6, and 7 of the Act contain various provisions relating to unfair labour practices. In 1991 the Council received 534 complaints of violations of these several provisions of the statute, an increase from the 528 received in 1990. The Council disposed of 543 complaints: 330 were settled without adjudication, usually through the assistance of an investigating officer. Of the remaining 213 complaints adjudicated by the Council, 94 were dismissed, 14 were not proceeded with and 105 resulted in remedial orders (including consent orders). Hearings were held for 182 applications, and 108 of the 213 decisions were accompanied by published reasons.

Allegations of Employer Violations

A number of unfair labour practice complaints allege employer activity to discourage employees from organizing. Of the 543 unfair labour practice complaints disposed of by the Council in 1991, 355 alleged such violations under Sections 2 and 3 of the Act. Of these, 73 alleged dismissals contrary to the Act. Of the remaining 282 complaints, 232 involved allegations of improper attempts to induce or compel abstention from union membership and 50 were based on alleged interference with trade union administration.

Table 1 in the Appendix of Statistical Tables, identifies the type and number of applications filed with the Council. The Council has now undertaken a comprehensive review of the relationship between certification-related applications (Sections 39(1), 39)2), 40, 45, 48 and 36), and unfair labour practice complaints (Sections 2 and 3). In 1989, of all certification and certification-related applications filed, 14% were found to have a direct correlation to complaints alleging unfair labour practices. In the year 1990, that figure increased to 25%, but in 1991 fell to 21%.

A significant unfair labour practice complaints concern discharge for union involvement, alleged in 73 of the 355 complaints. Sixty-eight of these complaints were brought by trade unions, one was brought by the union and an employee and four were brought by the employee alone. Settlements were reached with the assistance of an officer in 50 cases. Twenty-three discharge cases required adjudication.

Thirty-eight of the 73 dismissal complaints were withdrawn by the unions involved. Of the remaining 35 complaints, including settlements and decisions, 34 culminated in some form of relief for at least some of the employees affected.

The Council's power under Section 8(4)(c) to order reinstatement and/or back pay was the basis of 18 decisions (including consent orders) involving 62 employees. Forty-nine employees

were reinstated with back pay. Four were reinstated without back pay. Nine received cash settlements.

Twenty complaints requested certification under Section 8(4)(e) in conjunction with a complaint under Section 3. One of the requests was granted.

Organizing on Employer Premises

Three complaints were disposed of in 1991 alleging that trade unions had been organizing on the employers' properties during working hours. All three complaints were filed by employers. All three complaints were settled.

Coercion and Intimidation

Section 4(3) prohibits any coercive or intimidatory actions by a union in order to influence a person in deciding whether to be or cease being a union member. In 1991, the Council disposed of 12 applications alleging violations of this section. Seven applications were settled and four were dismissed. In one case the Council issued a consent order to resolve the dispute.

Fair and Reasonable Conditions of Membership

The Council dealt with 30 applications under Section 5 of the Act, 27 filed by employees, two by employers and one by a union. The Council did not proceed with one application. Twenty-two applications were settled and six were dismissed. In one case, the Council issued a consent order to resolve the dispute.

Discriminatory Practices Restricted

Section 5.1 is a statutory provision which restricts a trade union's ability to require an employer to terminate an employee's employment, or otherwise to discriminate against an employee in regard to employment or a condition thereof, due to lack of trade union membership. The Council dealt with three complaints under this section in 1991. All three complaints were settled.

Duty to Bargain in Good Faith

There were 38 complaints disposed of alleging a refusal to bargain in good faith as required by Section 6 of the Act. Thirty-four were filed by unions and four by employers.

Of the 38 charges of failure to bargain in good faith, 27 were voluntarily resolved. Five of these complaints were dismissed. In four cases, a violation was deemed to have occurred. In two cases, the Council issued a consent order to resolve the dispute.

Duty of Fair Representation

In 1991, the Council disposed of 102 complaints by individual employees alleging a violation by their bargaining agent of the duty of fair representation described in Section 7. Thirty-seven of these complaints were voluntarily resolved through the efforts of an officer. Fifty-nine complaints were either not proceeded with or dismissed. The Council issued consent orders to resolve three complaints. In one case the union was ordered to pay the complainant lost wages and costs. For two cases the remedies had not been resolved as of the date of this report.

Religious Exemptions

In 1991, the Council received 37 applications seeking exemption for employees from the union security and dues provisions of collective agreements because of individual religious convictions or beliefs. Forty-three such applications were disposed of by the Council. Twenty-two of the applications were granted, four were dismissed, 15 were not proceeded with and two were withdrawn.

Votes

Representation Votes

The Council may direct that representation votes be held in a variety of circumstances under the Act. A total of 416 representation votes were directed by the Council in the applications disposed of in 1991. In all applications for certification except "alternate construction certifications" under Section 45, a representation vote is required. A representation vote will be held pursuant to Section 52(2) of the Act where the Council receives a decertification application signed by at least 45% of the employees in the bargaining unit. Under Section 53(2), the Council may order a representation vote to determine which trade union will be the bargaining agent for a unit created as a result of a successorship. The Council may order that a representation vote be conducted before declaring that one trade union has acquired the rights of another trade union due to a merger, amalgamation, or transfer of jurisdiction (See Section 54(2)). Section 40 of the Act requires the Council to conduct a representation vote before issuing a multi-employer certification. Representation votes are used to determine consent to trade union representation by dependent contractors (Section 48(1)) and by professional employees (Section 152(2)). Finally, representation votes are used to determine whether a proposed council of trade unions is representative of the employees in the proposed bargaining unit (Section 57).

A total of 325 votes were held covering 327 applications for certification. Two votes each involved two certification applications for the same unit. A total of 297 votes involved applications for certification under Section 39(1) of the Act. Twenty-eight votes were the result of raids. A total of 6,590 voters were eligible to participate in the 297 votes under Section 39(1); the union was successful in 225 out of 299 applications or 75% of the cases. A total of 1,866 voters were eligible to participate in the 28 votes resulting from "raids"; the applicant union was successful in 17 or 61% of the cases.

Thirty-two applications to vary a certification required a vote. All of these sought to expand a presently certified bargaining unit, and the union was successful in 29 of these applications. Three of these applications were made to add dependent contractors to a bargaining unit. Two were successful and one was not.

Fifty-nine votes involved decertification applications made under Section 52(2) of the Act. In 51 cases, the union was decertified. The total number of employees eligible to vote for or against decertification was 661.

"Offer Last Received" Votes

Section 137.7 is a statutory provision introduced on July 27, 1987. Section 137.7(4) provides that before the commencement of a strike or lockout, the employer may request the commissioner to direct a vote of the employees in the affected bargaining unit regarding acceptance or rejection of the employer's offer last received by the trade union. Under Section 137.7(5), a trade union may request the commissioner to direct that a vote be taken of employers in an employers' organization as to the acceptance or rejection of the trade union's offer last received by the employers' organization. Moreover, during a strike or lockout the

commissioner may, on his own motion pursuant to Section 137.7(9) or (10), direct that a "final offer vote" be held if he considers it in the public interest to do so. Section 137.7(6) provides that where a vote favours the acceptance of a "final offer," an agreement is thereby constituted between the parties.

In 1991, 21 applications under Section 137.7(4) were filed and 21 such applications were disposed of. Sixteen of these applications were granted and five were withdrawn. For three of the applications granted the parties reached an agreement prior to the vote being held. In 12 of the remaining 13 cases, the employees voted to reject the offer. No applications were filed under Section 137.7(5), nor did the commissioner direct any votes pursuant to Section 137.7(9) or (10) of the Act.

First Contract Arbitration

After a trade union has been certified as bargaining agent for a group of employees, it will commence bargaining with the employer to conclude a first collective agreement. If the parties are unable to reach a first collective agreement, Section 137.5 of the Act provides that upon the request of a party, the commissioner may constitute a panel of the Council to inquire into the dispute and if he considers it advisable, to settle the terms and conditions of the agreement. Section 137.5 was introduced on July 27, 1987, and replaces Section 70 which provided that such a dispute would be referred to the tribunal by the Minister of Labour.

Seven applications by a party for first contract arbitration were received by the Council in 1991. The Council disposed of three such applications. Two were withdrawn and one was dismissed.

Failure to Execute or Comply with a Collective Agreement

In 1991, the Council received 31 applications alleging violation of Section 65(1) or (2) of the Act. It disposed of 30 such applications, 11 of which were settled and 11 dismissed. In six cases violations were found. For another two cases, the Council issued a consent order to resolve the dispute.

Delay or Unrest in Settling a Difference

In 1991, the Council received seven applications under Section 97 alleging undue delay in resolving a difference arising during the term of a collective agreement and disposed of four such applications. One application was withdrawn, two were dismissed and one was settled by the parties.

Alteration of Employment Terms and Conditions

Section 51 of the Act requires the Council's consent to changes in working conditions while a certification application is pending. Section 61 imposes the same requirement for four months following certification or until a collective agreement is executed, whichever occurs first. In 1991 the Council received and disposed of three applications seeking permission to alter terms and conditions of employment. Two applications were granted and one was withdrawn.

In 1991, the Council received 46 applications alleging violation of Section 51 or 61 of the Act and disposed of 49 such applications. Thirty-seven of the applications were settled, three were dismissed, in five cases consent orders were issued and in four cases violations were found.

Questions Arising Under the Act

Section 34 of the Act describes the Council's exclusive jurisdiction to decide any question arising under the Act, including whether certain individuals are "employees" and thus appropriately

included in a bargaining unit. In 1991, 69 such applications were filed with the Council. A total of 98 applications were disposed of by the Council, 54 of same involving the question as to whether individuals were "employees" under the Act and/or included in a specific bargaining unit. For 54 of the 98 applications a ruling was made, eight were not proceeded with and 36 were withdrawn.

Declaratory Opinion

The Council received 19 applications in 1991 requesting that it render a declaratory opinion (other than applications pertaining to Part 5 of the Act). The Council disposed of 16 applications. In four cases, an opinion was issued. Seven applications were dismissed and five applications were withdrawn.

Variance of Certification

In 1991, the Council received a total of 292 applications for certification variance, an increase of 9% from 1990. As in previous years, most of the applications involved a simple change in the name or address of the employer or the trade union. The Council disposed of 370 applications for certification variance, granting 275 of the applications. Thirty-nine of the applications to vary a certification sought to expand a bargaining unit. Twenty-nine of these were granted, adding 227 employees and 23 dependent contractors to existing certifications. Votes were conducted to decide 32 of the 39 applications.

Declaration of Successor Employer

Section 53 provides for the automatic transfer of union certification and the collective agreement when a business is disposed of, for example, by sale or lease. In 1991, the Council received 95 applications for a declaration of successor employer status. The Council disposed of 96 such applications in 1991, granting 78, while 13 were withdrawn and five were dismissed.

Declaration of Successor Trade Union

In 1991 the Council received 33 applications for declaration under Section 54 of the Act, on the bargaining rights of successor trade unions resulting from a union merger, amalgamation, or a transfer of jurisdiction. The Council disposed of 111 such applications, granting 46. Fifteen were dismissed. Fifty were withdrawn.

Declaration of Common Employer

In 1991, the Council received 17 applications for declarations under Section 37 of the Act to treat two or more businesses as constituting one employer. A total of 17 applications under Section 37 were disposed of, two of them involving enterprises in the construction industry. Seven applications were settled or withdrawn. Of the remaining 10, the Council granted five declarations with respect to at least some of the businesses named in the application. The balance were dismissed.

Essential Services Designation

The Council received two applications requesting essential service designations in 1991, and disposed of two such applications. One application was dismissed and one was settled by the parties.

Resolving Grievances under a Collective Agreement

Section 96 of the Act provides the Council with a comprehensive original jurisdiction to resolve grievances arising under the provisions of a collective agreement. In 1991, the Council received 130 applications under Section 96 requesting the assistance of an officer to settle a difference arising during the term of a collective agreement. A total of 135 applications under Section 96 were disposed of by the Council, with 79 voluntarily settled, virtually all through the efforts of an officer. This represents a settlement rate of 59%, a major benefit to the labour relations community, given that the parties voluntarily resolved their differences and a potentially serious overloading of the arbitration procedure is thereby avoided. If the officer appointed by the Council does not achieve a resolution of the arbitrable difference, the Council may either refer the matter back to the parties, or inquire into the difference itself and make an order to finally resolve it. Of the 135 applications disposed of in 1991 under Section 96, 56 were not settled through officer mediation. Three of these applications were not proceeded with, two were determined to be non-arbitrable and 36 were referred back to the parties. The remaining 15 were adjudicated by the Council, all of which turned on issues which could be disposed of on the basis of the officer's report and written submissions from the parties.

Review of Arbitration Awards

Section 108 of the Act gives the Council authority to review arbitration awards delivered under collective agreements. In 1991, the Council received 48 applications and disposed of 44 under Section 108. Of the latter, 18 were brought by employers, 16 by unions, one by a union and a griever and nine by grievers. Ten dealt with arbitration awards regarding discharge grievances.

Section 108 affords only a limited review of an arbitration award rather than an extensive scope of appeal. This policy of limited interference in grievance arbitration is reflected in the fact that of the 44 applications disposed of during the year, in only nine cases were the arbitrators' decisions set aside. In four cases, the awards were referred back to the original arbitrators. In two cases the grievance was to be heard by a new arbitrator. In the other three cases, the Council substituted other awards. Five applications under Section 108 were withdrawn or not proceeded with and 30 were dismissed. Of the 39 applications adjudicated by the Council, two were dealt with in a formal hearing and 35 were disposed of with reasons for decision issued to the labour relations community at large.

Accredited Employers' Organizations

No applications were received in 1991 for accreditation of an employer organization as a bargaining agent of employers.

Twelve applications were made to vary an accreditation and 12 applications disposed of: nine were granted and three were withdrawn. (See Table 1 and footnotes thereto in the Statistical Appendix).

The Council disposed of one application to cancel an accreditation. The application was granted.

Strikes, Lockouts and Picketing

A total of 131 applications relating to strikes, lockouts and picketing were received by the Council in 1991. The Council disposed of 121 cases: 66 applications alleged illegal strike activity, six alleged illegal lockouts and 49 concerned picketing activity. Of the 121 applications disposed of, 48 were settled without formal adjudication. These included 28 of the 66 strike applications, two of the eight lockout applications and 18 of the 116 picketing applications.

Of the 73 applications which required formal adjudication, 55 resulted in orders or opinions and 18 were dismissed. Thirty-eight of the applications requiring adjudication involved some sort of strike activity, four involved alleged lockouts and 31 involved picketing activity.

Strikes and Lockouts

A fundamental principle of the Act is that the legality of a strike or lockout depends upon its timing. Section 93 requires that all disputes arising under a collective agreement are to be resolved, without work stoppage, by arbitration or another method agreed to by the parties. Sections 79 and 79.1 also contemplate that strikes and lockouts are prohibited during the term or operation of a collective agreement. Moreover, Sections 80 through 83 of the Act stipulate certain preconditions to the legality of a strike or lockout.

In 1991, the Council disposed of 66 applications alleging illegal strike activity. Of the 38 applications which required adjudication, 27 alleged threatened or actual illegal job action while a collective agreement was in effect. For 18 of the 27 applications, the Council ruled that a violation of the Act had occurred or would occur, while four applications were resolved with a consent order. Another 10 of the adjudicated strike applications alleged a violation of statutory preconditions to legal job action. For five of the 10 applications, the Council ruled that a violation of the Act had occurred or would occur. One application was resolved with a consent order. Finally, in one of the 38 applications requiring adjudication, relief was requested under Section 90. The application was granted.

The Council adjudicated four applications during 1991 alleging illegal lockouts. Three were dismissed. In one case, the Council ruled a violation had occurred.

Picketing

Section 85 through 88 of the Act delineate the scope of legal picketing activities by trade unions. In the 1991 report year, 49 applications relating to picketing were disposed of by the Council, 38 filed by employers and 11 by unions. See Table 7 in the Statistical Appendix for an illustration of the nature and disposition of these applications.

Termination of Bargaining Rights

Section 52 of the Act deals with the cancellation of trade union certifications. The Council received 150 and disposed of 179 such applications in 1991. Of the latter, 85 were filed by groups of employees, 89 were filed by employers, and five were filed by trade unions. The Council granted 122 of the 179 applications, 43 were rejected or not proceeded with and 14 were withdrawn. See Table 3 in the Statistical Appendix.

Termination of Collective Agreements

Section 66(1.1) provides that a collective agreement is deemed to be terminated where an employer has not employed a person as an employee in a unit for a period of two years. In 1991, 20 applications regarding the termination of voluntary recognition collective agreements were filed by employers. The Council disposed of 18 such applications, granting 15.

Reconsiderations

In 1991, the Council received 96 applications under Section 36 of the Act, requesting reconsideration of Council decisions. Of the 98 applications disposed of during 1991, 13 were withdrawn, 74 were dismissed and 11 resulted in a change in the original decision. For an

illustration of the "success" rate of reconsideration applications, see Table 6 in the Statistical Appendix.

Trusteeship Over Local Unions

Under Section 11.1 of the Industrial Relations Act, when supervision or control over a subordinate trade union is assumed by a provincial, national or international trade union, the latter is required to file with the Council a statement setting out the terms under which the supervision or control is to be exercised, within 60 days of assuming such supervision or control. The supervision or control shall continue for not more than 12 months unless an application is received to extend the supervision or control for a further period, not exceeding 12 months. In 1991, one application regarding trusteeship was received by the Council.

DISPUTES RESOLUTION DIVISION

Section 137.2 of Part 8.1 of the Act specifies the duties of the Disputes Resolution Division:

> (a) to monitor collective bargaining between employers and bargaining agents;
>
> (b) to provide assistance to employers and bargaining agents to facilitate the making or renewing of collective agreements;
>
> (c) to gather and publish information and statistics respecting labour relations, employment and collective bargaining in the Province;
>
> (d) to administer mediation services provided under this Part, and
>
> (e) to carry out the functions imposed on it by this Part and other functions the Council considers necessary to effect the purposes of this Part.

The chairman of the Disputes Resolution Division carries the responsibilities of the Division, assisted by three mediation officers. As of December 31, 1991, Don Cott, Larry Gregg, and Malcolm Wilkinson served as mediation officers. In addition, Don Cott also acts as the Director of Mediation, and Larry Gregg as the Director of Bargaining Information responsible for overseeing the collective bargaining data base and related publications issued by the Council. When the Minister directs the Council to designate essential services (see Section 137.8 of the Act), the commissioner may refer the matter to this Division. The provision of mediation services is described in Sections 137.3 and 137.7 of the Act. Mediation officers are also available on an informal basis. The clients are trade unions, employers, and employers' associations located throughout British Columbia. The Division maintains contact with a variety of conciliation and mediation services in Canada and the United States to exchange information on administration, legislation, trends and problems of mutual concern. The Division also makes available speakers, panellists and moderators to educational institutions as well as trade union and employer organizations.

For an analysis of mediation officer appointments and outcome of appointments in 1991, refer to Tables 9 and 10 in the Statistical Appendix.

The Division administers the Preventive Mediation Program. This program utilizes the services and expertise of mediation officers to assist labour and management in identifying and resolving existing or potential problems which affect the collective bargaining relationship. It is founded on the premise that effective labour/management relations benefit the public as well as the parties. The five elements of the program are:

- *relationship by objectives*
- *joint training*
- *grievance mediation*
- *labour-management committees*
- *first agreement orientation*

Relationship by objectives is an in-depth, conflict resolution process that brings the parties together to analyze problems of mutual concern, to establish common objectives, and to decide

on ways and means to implement those objectives. Joint training is a joint union-management training course for shop stewards and management supervisors. The training is intended to enhance the ability of supervisors and stewards to jointly deal with minor problems before they become major issues; to encourage supervisors and stewards to recognize and respect each other's roles, responsibilities and rights; to emphasize problem-solving and the mutuality of interests. ***Grievance mediation*** is a quick, inexpensive and voluntary way to resolve grievances. Representatives of labour and management meet with a mediation officer to attempt resolution of a grievance prior to arbitration. It is an informal process that has proven useful not only in resolving grievances but in identifying and resolving situations that produce grievances. ***Labour-management committees*** provide an effective forum for emphasizing two-way communication on problems that affect relations between labour and management. These committees may focus on issues that would normally arise in piecemeal fashion or which would otherwise need to be addressed through more formal mechanisms. Concerns such as working conditions, operational problems, job assignments, work scheduling and economic conditions affecting the enterprise can be effectively dealt with by labour-management committees. The Division provides assistance on how to establish and maintain such committees, including monitoring or chairing new committees. ***First agreement orientation*** is a Division service that provides information to employers and trade unions who are negotiating or are about to negotiate a collective agreement for the first time. The objective is to remove the mystique surrounding collective bargaining by providing practical information on the legislative guidelines and thereby enabling negotiations to proceed more smoothly.

The Division saw a continued demand for the Preventive Mediation Program in 1991. As with earlier years there were many requests for the First Agreement Orientation kits. The mediation staff follows up these requests to provide additional information or clarification to ensure that the parties get their relationships off on the right foot. The parties continue to avail themselves of the grievance mediation process and through the assistance of the mediation staff the parties resolved a large majority of the disputes handled in this manner. The mediation officers were also active in identifying relationships that could be improved. Many were discovered while the officers had the parties in mediation. In a number of cases this meant that the officers followed up with the parties and often established joint labour/management committees to deal with ongoing concerns of the parties away from the collective bargaining process. In addition, some of the complex issues which are making their way to the bargaining table are best dealt with away from the pressures of the bargaining process and through the establishment of working committees the parties have been able to reach closure on these issues as well as arriving at a contract settlement.

COLLECTIVE BARGAINING INFORMATION SYSTEM

In 1991, the Division continued to refine and enhance its computer driven data base containing compensation information on all active collective agreements within the Province.

The "Collective Bargaining Information System" is an on-line data base available, on a fee for service basis to all who wish to participate. The system contains information on collective agreements negotiated in the Province as reported to the Division. Users can view the wage and benefit details of an agreement along with the results of the Division's own costing model. After signing a service agreement with the Council the user receives a password and communications software which will allow them to access the system from their own computer through the use of a modem and telephone line.

Since its introduction in 1990, the system has seen its list of users grow to in excess of 50 organizations including trade unions, employers, employer organizations, law firms and labour relations consultants.

The Division continued to publish its "Collective Bargaining Information Monthly Summary." In October 1990, this publication replaced the Ministry of Labour's Collective Bargaining Information newsletter. The Division's publication includes highlights of recent settlements, information on work stoppages in the Province, lists of expiring contracts, and a listing of all arbitration awards received in the month by the Ministry. In addition, it continues to provide current labour force and economic information as collected by Statistics Canada. Through the use of the computer based system the publication also provides detailed breakdowns of settlement trends on an overall or sector to sector basis.

The Division also has been active in insuring that parties to collective agreements provide copies of the agreements to the Council as mandated by the Act. At present, the Division has almost 4,000 agreements on file in the Council's library. There is an on-line search program which allows the library and Division staff to quickly find agreements as they are requested. This library of agreements has been used extensively in the last year by practitioners and lay people alike. It also has been employed by students from local post secondary institutions.

VIII APPENDIX OF STATISTICAL TABLES

The following tables provide an analysis of the applications filed and disposed of in 1990 and 1991.

The Council has implemented a computerized Case Management System. The statistical base for the category relating to the appointment of strike and lockout observers had to be changed in 1988 to be compatible with the new system. The 1990 and 1991 Tables show the number of applications for appointments received and disposed of by the Council. As well, for 1990 and 1991, the number of appointments made in respect of those applications is shown in a footnote.

As in previous years, an application involving a dispute is classified as withdrawn if the request for withdrawal comes prior to the involvement of an officer or a panel. An application withdrawn following such involvement is classified as settled.

Two new tables have been added to the 1991 Annual Report. The type of data in these tables is currently available in the reports produced by the Ontario Labour Relations Board. Table 1A breaks down the certifications granted in the report year, by industry. Table 1B breaks down the applications for certification received by the Council in the report year, by the applicant union.

It is important to note when using these statistics as a guide that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1

APPLICATIONS AND COMPLAINTS FILED AND DISPOSED OF 1990 - 1991

The category "Dismissed" includes decisions where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.

For further elaboration of the figures in the table, refer to Chapter VI and the previous page.

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1990	1991	1990	1991
Certification Applications				
Granted			250*3	244*4
Dismissed			101	102
Not Proceeded With			2	1
Withdrawn			86	68
Sub-Total	435*1	409*2	439	415
Certification Variances				
Granted			223	275
Dismissed			8	15
Not Proceeded With			3	3
Withdrawn			17	77
Sub-Total	267	292	251	370
Certification Cancellations				
Granted			75	122
Dismissed			19	19
Not Proceeded With			21	24
Withdrawn			6	14
Sub-Total	143	150	121	179

cont.

*1 12,763 employees were included in the 435 certification applications filed in 1990.

*2 9,926 employees were included in the 409 certification applications filed in 1991.

*3 5,917 employees were included in the 250 certifications granted in 1990.

*4 5,413 employees were included in the 244 certifications granted in 1991.

The estimate of employees per application is derived from the estimate on the union applications. Variances do occur between the time of application and the time of disposal of the application. In the case of applications filed, the estimate could include some multiple counting where more than one union applied to cover the same group of employees.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1990 - 1991

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1990	1991	1990	1991
Accreditation Applications				
Granted			0	0
Dismissed			0	0
Not Proceeded With			0	0
Withdrawn			0	0
Sub-Total	0	0	0	0
Accreditation Variances				
Granted			20	9
Dismissed			0	0
Not Proceeded With			0	0
Withdrawn			0	3
Sub-Total	21*1	12*2	20*3	12*4
Accreditation Cancellations				
Granted			0	1
Dismissed			0	0
Not Proceeded With			0	0
Withdrawn			0	0
Sub-Total	1	0	0	1
Declaration of Successor Status				
Granted			110	124
Dismissed			10	20
Not Proceeded With			0	0
Withdrawn			20	63
Sub-Total	152	128	140	207

cont.

*1 To add 10 employers, to delete 18 employers and to vary the names and/or addresses of eight employers and one association.

*2 To add 11 employers, to delete three employers and to vary the names and/or addresses of two associations.

*3 Ten employers were added to accreditations, 18 were deleted and the names and/or addresses of seven employers and one association were varied.

*4 Eight employers were added to accreditations, two were deleted and the names and/or addresses of one employer and two associations were varied. Requests to add three employers were withdrawn.

TABLE 1 (cont.)

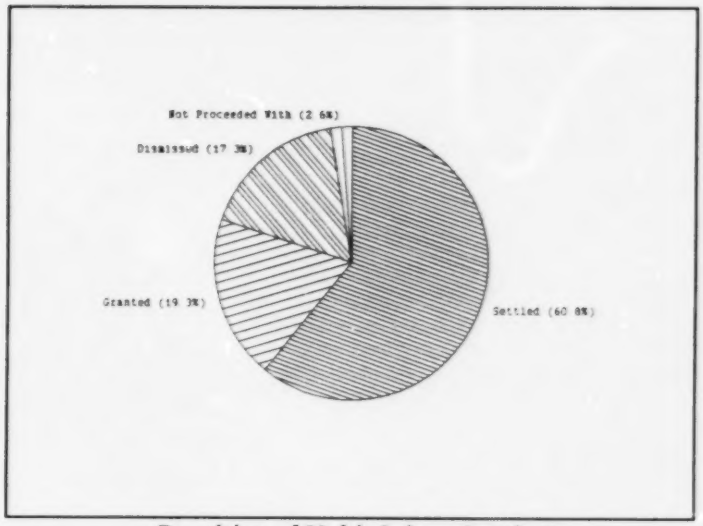
APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1990 - 1991

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED 1990	1991	APPLICATIONS AND COMPLAINTS DISPOSED OF 1990	1991
Appointment of an Officer to Resolve a Dispute Where a Collective Agreement is in Effect				
Settled			76	79
Arbitrated			16	15
Referred Back to Parties			20	36
Not Arbitrable			1	2
Not Proceeded With			2	3
Sub-Total	115	130	115	135
Complaints of Unfair Labour Practices				
Settled			274	330
Granted			108	105
Dismissed			129	94
Not Proceeded With			20	14
Sub-Total	528	534	531	543
To Alter Conditions of Employment				
Granted			5	2
Dismissed			1	0
Not Proceeded With			0	0
Withdrawn			0	1
Sub-Total	6	3	6	3
For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship				
Ruling Made			41	54
Not Proceeded With			5	8
Withdrawn			53	36
Sub-Total	112	69	99	98

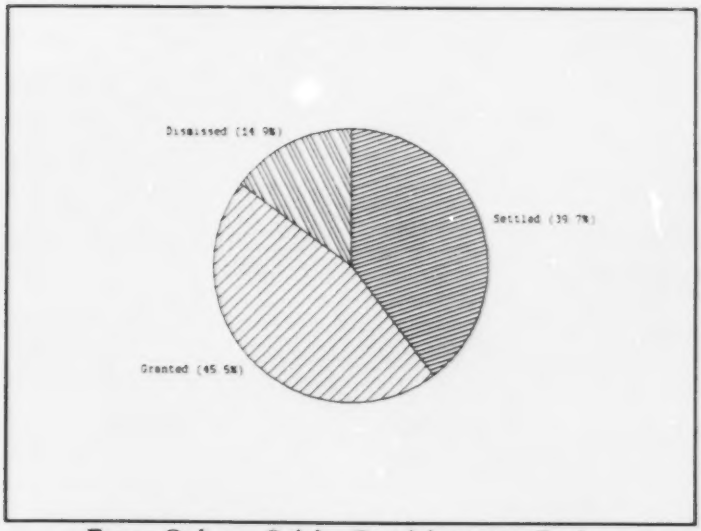
cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1990 - 1991



Complaints of Unfair Labour Practices



For an Order or Opinion Pertaining to Applications
Pursuant to Part 5 of the Industrial Relations Act
(Strikes, Lockouts, Picketing, etc.)

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1990 - 1991

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1990	1991	1990	1991
To Cancel a Voluntary Recognition Collective Agreement				
Granted			16	15
Dismissed			2	0
Not Proceeded With			2	2
Withdrawn			0	1
Sub-Total	18	20	20	18
For an Inquiry to Settle the Terms and Conditions of a First Collective Agreement				
Settled			1	0
Contract Imposed			0	0
Dismissed			1	1
Withdrawn			0	2
Sub-Total	1	7	2	3
For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.)				
Settled			90	48
Granted			83	55
Dismissed			10	18
Sub-Total	182	131	183	121
To Treat Several Entities as One Employer				
Granted			11	5
Dismissed			11	5
Not Proceeded With			0	0
Withdrawn			18	7
Sub-Total	29	17	40	17

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1990 - 1991

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1990	1991	1990	1991
For Review of an Arbitration Award				
Granted			6	9
Dismissed			31	30
Not Proceeded With			0	1
Withdrawn			4	4
Sub-Total	42	48	41	44
For the Appointment(s) of Observer(s) of a Strike or Lockout Poll				
Appointment(s) Made			319*1	364*2
Withdrawn			13	11
Sub-Total	332	378	332	375
For the Appointment of an Arbitrator				
Request Acknowledged			518	486
Sub-Total	494	484	518	486
For an Interim Order				
Granted			0	0
Dismissed			5	5
Withdrawn or Not Proceeded With			11	13
Sub-Total	17	18	16	18

cont.

*1 471 observers were appointed for the 319 applications. Due to the conversion to a computer based case management system, it was necessary to change the statistical base for strike or lockout observer appointments in 1988. See the preface to the Statistical appendix for an explanation of the change.

*2 480 observers were appointed for the 364 applications.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1990 - 1991

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1990	1991	1990	1991
For an "Offer Last Received" Vote				
Granted			8[1]	16[2]
Dismissed			2	0
Withdrawn			0	5
Sub-Total	10	21	10	21
For Religious Exemption				
Granted			23	22
Dismissed			8	4
Not Proceeded With			19	15
Withdrawn			2	2
Sub-Total	49	37	52	43
For an Order Regarding an Alleged Failure to Execute or Comply with a Collective Agreement				
Settled			19	11
Granted			6	8
Dismissed			6	11
Sub-Total	29	31	31	30
For an Order Regarding Alleged Unlawful Alteration of Employment Terms and Conditions				
Settled			42	37
Granted			17	9
Dismissed			3	3
Sub-Total	63	46	62	49
For Essential Service Designations				
Settled			18	1
Granted			3	0
Dismissed			0	1
Sub-Total	19	2	21	2

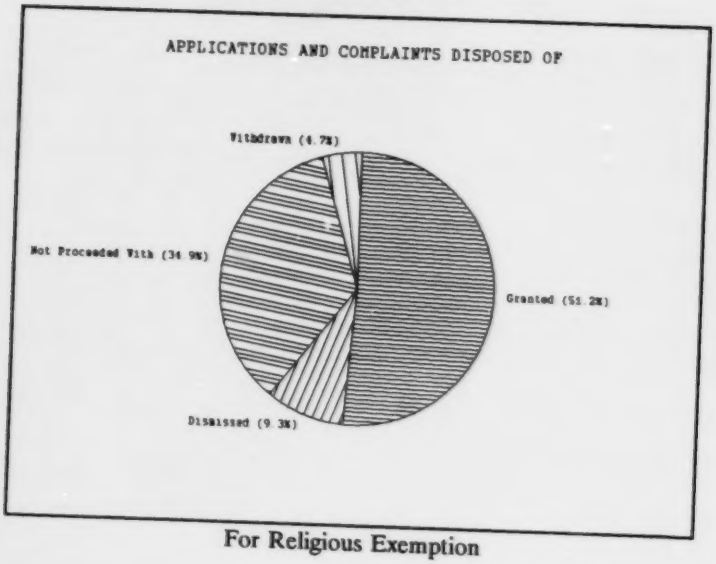
cont.

*1 In seven cases, the employees voted to reject the offer. In one case, the parties reached a settlement before the vote was held.

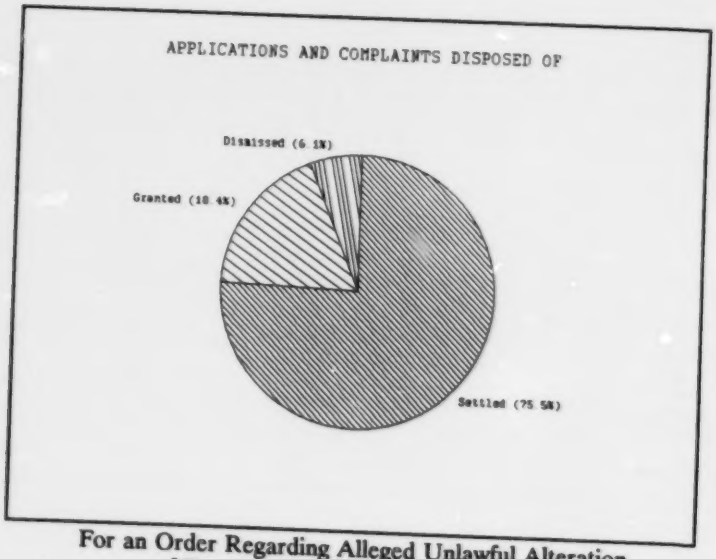
*2 In 12 cases, the employees voted to reject the offer. In one case, the employees voted to accept the offer. In three cases, the parties reached a settlement before the vote was held.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS FILED AND DISPOSED OF 1990 - 1991



For Religious Exemption



For an Order Regarding Alleged Unlawful Alteration of Employment Terms and Conditions

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1990 - 1991

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1990	1991	1990	1991
For a Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Industrial Relations Act)				
Granted			4	4
Dismissed			5	7
Withdrawn			8	5
Sub-Total	16	19	17	16
For an Order Prohibiting a Secondary Boycott				
Settled			1	3
Granted			2	0
Dismissed			0	0
Sub-Total	1	3	3	3
For an Order Regarding Freedom of Association				
Settled			0	1
Granted			2	0
Dismissed			0	0
Sub-Total	0	1	2	1
To Appoint a Fact Finder				
Granted			1	0
Dismissed			0	0
Withdrawn			0	0
Sub-Total	1	0	1	0
Miscellaneous				
Settled			12	18
Granted			8	6
Dismissed			10	13
Not Proceeded With			1	0
Withdrawn			7	3
Sub-Total	39	42	38	40

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1990 - 1991

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1990	1991	1990	1991
For Reconsideration of a Decision				
Granted			14	11
Dismissed			89	74
Withdrawn			17	13
Sub-Total	121	96	120	98
To file an order in the Supreme Court				
Granted			51	30
Dismissed			0	1
Withdrawn or Not Proceeded With			6	11
Sub-Total	57	48	57	42
TOTAL	3300*	3176*	3288*	3390*

* Due to the conversion to a computer based case management system, it was necessary to change the statistical base for strike and lockout observer appointment applications in 1988. Also, applications for Interim Orders were added to the 1988 statistics. See the preface to the Statistical Appendix for an explanation of the change.

TABLE 1A

ANALYSIS OF CERTIFICATIONS GRANTED IN 1991 BY INDUSTRY

TYPE OF INDUSTRY	NUMBER OF CERTIFICATIONS GRANTED	NUMBER OF EMPLOYEES
Fishing and trapping	1	22
Logging and forestry	4	79
Mining (including milling), quarrying and oil wells	2	20
Manufacturing	27	653
Construction	92	917
Transportation and storage	23	485
Communication and other utilities	1	29
Wholesale trade	5	370
Retail trade	9	295
Finance and insurance	1	8
Government services	4	151
Educational services	6	414
Health and social services	21	607
Accommodation, food and beverage services	24	972
Other services	24	391
TOTAL	244	5413

TABLE 1B

CERTIFICATION APPLICATIONS FILED IN 1991 ANALYZED BY UNION

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	NUMBER OF CERTIFICATION APPLICATIONS FILED
Boilermakers	2
Canadian Construction & Service Workers	5
C.L.A.C.	6
Carpenters	9
Cement Workers	1
Electrical Workers	7
Elevator Constructors	8
General Workers	2
Glaziers & Glass Workers	2
Iron Workers	6
Labourers	11
Machinists & Aerospace Workers	11
Operating Engineers	30
Painters	10
Plumbers	76
Sheet Metal Workers	3
I.W.A	40
P.P.W.C.	4
C.U.T.E.	1
Marine Workers	1
Seafarers	1
Shipyard Workers	2
Teamsters	37
Transit Union (ATU)	2
Transit Union (ICTU)	4
Transport & General Workers	5

cont.

TABLE 1B (cont.)

CERTIFICATION APPLICATIONS FILED IN 1991
ANALYZED BY UNION

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	NUMBER OF CERTIFICATION APPLICATIONS FILED
A.C.T.R.A.	2
Director's Guild	1
N.A.B.E.T.	2
Theatrical Stage Employees et al	3
Union of B.C. Performers	4
Children's Services Employees	1
Service Employees	1
Service Workers	6
C.H.A.W	2
Hotel Employees	20
Health Science Association	3
Hospital Employees Union	6
Nurses	4
Fire Fighters	1
Newspaper Guild	3
Communication Workers	7
CASAW	2
CAIMAW	5
Canadian Iron, Steel and Industrial Workers	7
Steelworkers	6

cont.

TABLE 1B (cont.)

CERTIFICATION APPLICATIONS FILED IN 1991
ANALYZED BY UNION

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	NUMBER OF CERTIFICATION APPLICATIONS FILED
Food & Commercial Workers	17
Bakery Workers	1
Brewery Workers	1
Retail, Wholesale Employees	1
C.U.P.E.	10
O.T.E.U.	4
Telecommunication Workers	1
B.C.G.E.U.	27
V.M.R.E.U.	1
Faculty Association	2
Single Employer Independent Union	11
TOTAL APPLICATIONS FILED	409*

* Adding the individual numbers in the column produces a larger number because 13 applications were filed jointly, two by eleven unions, three by four unions, two by three unions and six by two unions.

TABLE 2

CERTIFICATION APPLICATIONS DECIDED IN 1991

APPLICATIONS	GRANTED	DISMISSED	TOTAL
All unorganized employees plus some organized employees where the applicant sought to represent an all-employee unit (S. 39(1) & S. 45 of the Act)	227	88	315
Organized employees excluding those described above (S. 39(2) of the Act)	17	14	31
TOTAL	244	102	346

NUMBER OF EMPLOYEES	GRANTED	DISMISSED	TOTAL
All unorganized employees plus some organized employees where the applicant sought to represent an all-employee unit (S. 39(1) & S. 45 of the Act)	4166	2690	6856
Organized employees excluding those described above (S. 39(2) of the Act)	1247	1034	2281
TOTAL	5413	3724	9137

TABLE 3

APPLICATIONS TO CANCEL CERTIFICATIONS DISPOSED OF IN 1990-1991

	NUMBER OF APPLICATIONS	
	1990	1991
Filed by the Employee(s)		
Granted	46	51
Dismissed	10	17
Not Proceeded With	14	14
Withdrawn	6	3
TOTAL	76	85
Filed by the Employer		
Granted	26	67
Dismissed	8	2
Not Proceeded With	7	10
Withdrawn	0	10
TOTAL	41	89
Filed by the Union		
Granted	3	4
Dismissed	1	0
Withdrawn	0	1
TOTAL	4	5
Summary		
Granted	75	122
Dismissed	19	19
Not Proceeded With	21	24
Withdrawn	6	14
TOTAL	121	179

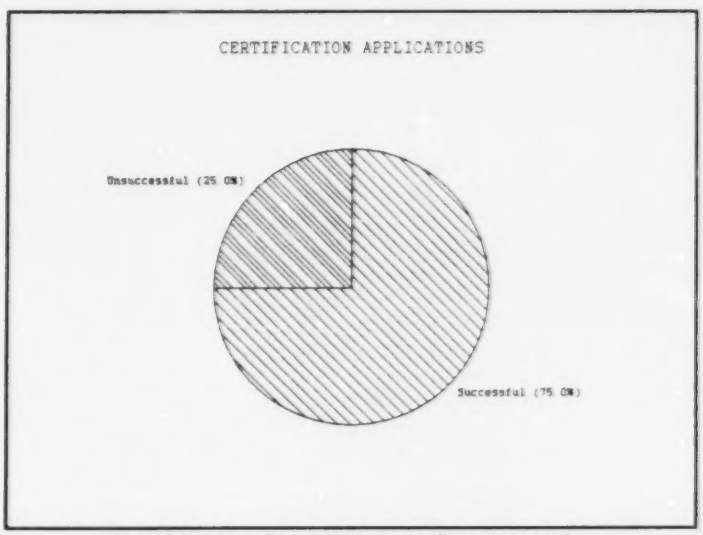
TABLE 4

CERTIFICATION APPLICATIONS RESULTING IN A VOTE IN 1991

A.	Number of applications resulting in a vote for or against one union or between two unions applying for the same unit		299 out of 315* or 95%
	Number of successful applications		225
	Number of unsuccessful applications		74
	Percentage of successful applications		75%
	Total number of eligible voters involved in the 299 applications **	6590	
B.	Number of applications resulting in a choice between an applicant and an incumbent union		28 out of 31 or 90%
	Number of successful applications		17
	Number of unsuccessful applications		11
	Percentage of successful applications		61%
	Total number of eligible voters involved in the 28 applications **	1866	

* Includes three applications under S.45 of the Act which do not require a vote.

** This figure can vary from the number of employees originally applied for. In some cases, two or more applications resulted in one vote and thus one group of eligible voters.



Resulting in a Vote For or Against One Union

TABLE 5

APPEALS DISPOSED OF IN 1991

Type of Application Being Reconsidered	Dismissed	Granted	Withdrawn	Total
Certification	11	2	3	16
Appeal of a certification decision	2	0	0	2
Variance of a certification	1	0	0	1
Declaration of successor status	2	0	1	3
The disposition of a grievance under an existing collective agreement	0	0	1	1
Unfair labour practice adjudication	29	1	1	31
Appeal of an unfair labour practice adjudication	2	0	0	2
A ruling re: an interpretation of the legislation as it applies to the collective bargaining relationship	5	3	2	10
Appeal of a ruling re: an interpretation of the legislation as it applies to the collective bargaining relationship	0	1	0	1
A ruling re: more than one corporate entity being considered as one employer	1	0	0	1
A ruling pertaining to alleged illegal strikes, lockouts, picketing, etc.	6	0	3	9
A review of an arbitration award	4	1	0	5
Appeal of a review of an arbitration award	1	0	0	1
A ruling re: collective agreement compliance	1	0	1	2

cont.

TABLE 5 (cont.)

APPEALS DISPOSED OF IN 1991

Type of Application Being Reconsidered	Dismissed	Granted	Withdrawn	Total
A ruling re: religious exemption	3	1	0	4
Appeal of a ruling re: religious exemption	1	2	0	3
Appeal of an appeal of a ruling re: religious exemption	1	0	0	1
A ruling re: interest arbitration	1	0	0	1
A ruling re: procedure	3	0	1	4
TOTAL	74	11	13	98

cont.

TABLE 5 (cont.)
APPEALS DISPOSED OF IN 1991

Appellant(s)	Dismissed	Granted	Withdrawn	Total
Employer(s)	19	3	8	30
Union(s)	29	6	4	39
Employee(s)	26	2	1	29
TOTAL	74	11	13	98

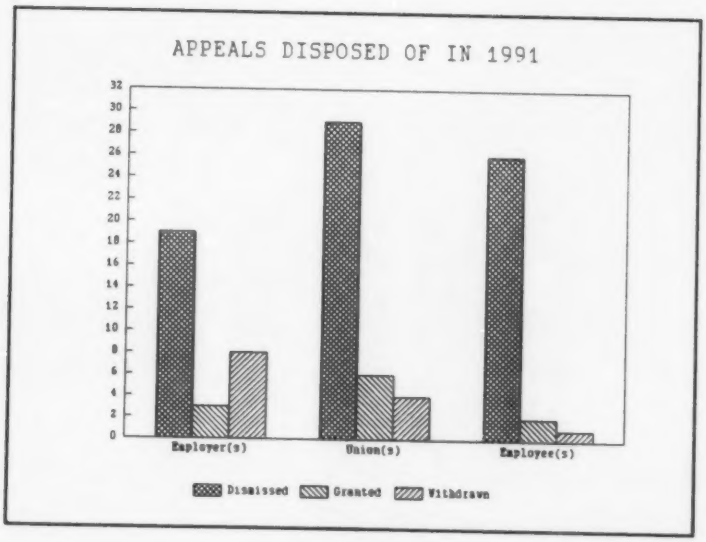


TABLE 6
"SUCCESS" RATE OF APPEALS

	1987	1988	1989	1990	1991
Total Applications Disposed of	204	185	138	120	98
Number of These Withdrawn	53	27	8	17	13
Number of Applications Processed to a Final Decision	151	158	130	103	85
Number of Applications Resulting in a Revision of the Original Decision	26	31	24	14	11
"Success" Rate of Appeals	17%	20%	18%	14%	13%

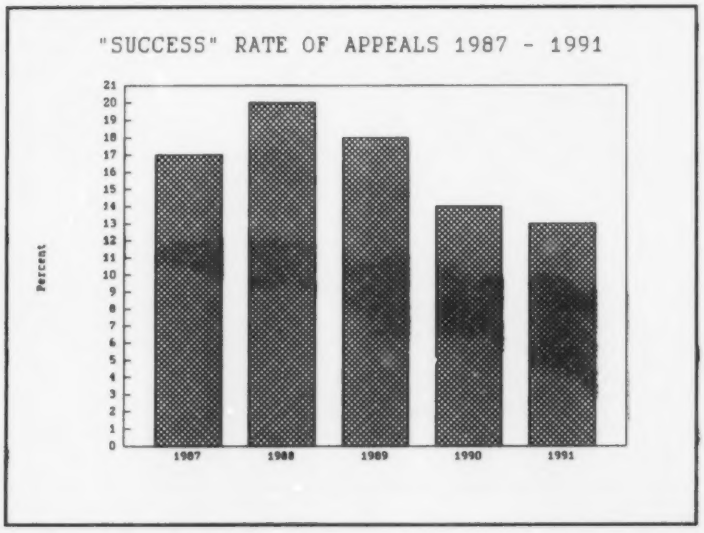


TABLE 7

APPLICATIONS PURSUANT TO PART 5 OF THE INDUSTRIAL RELATIONS ACT (STRIKES, LOCKOUTS, PICKETING, ETC.) DISPOSED OF IN 1991

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION
A. Dispute settled			
1. re alleged illegal lockout	2	0	0
2. re alleged illegal strike or a challenged strike vote	23	3	0
3. re picketing (employer complaint)	14	2	0
4. re picketing (trade union application for a declaratory opinion)	4	2	0
5. re activity affecting business, etc. (S.90)	5	1	0
Sub-Total	48	8	0
B. Dispute disposed of by an adjudication that:			
(a) a violation had occurred or would occur or that a specific activity should be restricted, or			
(b) that certain proposed picketing be allowed			
1. re alleged illegal lockout	1	1	1
2. re alleged illegal strike or a challenged strike vote	28	26	14
3. re picketing (employer complaint)	21	21	6
4. re picketing (trade union application for a declaratory opinion)	4	4	2
5. re activity affecting business, etc. (S.90)	1	1	1
Sub-Total	55	53	24

cont.

TABLE 7 (cont.)

APPLICATIONS PURSUANT TO PART 5
OF THE INDUSTRIAL RELATIONS ACT
(STRIKES, LOCKOUTS, PICKETING, ETC.)
DISPOSED OF IN 1991

TYPE OF APPLICATION		NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION
C.	Dispute disposed of:			
(a)	by an adjudication that no violation had occurred or would occur or that a specific activity should not be restricted, or			
(b)	by a refusal to rule on the proceedings			
1.	re alleged illegal lockout	3	3	3
2.	re alleged illegal strike	9	9	5
3.	re picketing (employer complaint)	3	3	2
4.	re picketing (trade union application for a declaratory opinion)	3	3	3
	Sub-Total	18	18	13
	TOTAL	121	79	37

Note: The applications in Table 7 include those filed to avert threatened strikes, lockouts and/or picketing (through a declaratory opinion, a jurisdictional decision, etc.) as well as those protesting some form of actual job action.

TABLE 8

1991 APPLICATIONS AND COMPLAINTS ANALYZED BY APPLICANT

	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total
Certification Applications	0	409	0	0	409
Certification Variances	49	242	1	0	292
Certification Cancellations	57	5	88	0	150
Accreditation Applications	0	0	0	0	0
Accreditation Variances	12	0	0	0	12
Accreditation Cancellations	0	0	0	0	0
Declaration of Successor Status	6	122	0	0	128
Appointment of an Officer to Resolve a Dispute Where a Collective Agreement is in Effect	3	127	0	0	130
Complaints of Unfair Labour Practices	21*	360*	156*	0	534*
To Alter Conditions of Employment	3	0	0	0	3
For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	28	37	4	0	69
To Cancel a Voluntary Recognition Collective Agreement	20	0	0	0	20
For an Inquiry to Settle the Terms and Conditions of a First Collective Agreement	0	7	0	0	7
For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.)	109	22	0	0	131
To Treat Several Entities as One Employer	0	17	0	0	17
For Review of an Arbitration Award	24	16*	9*	0	48*

cont.

TABLE 8 (cont.)

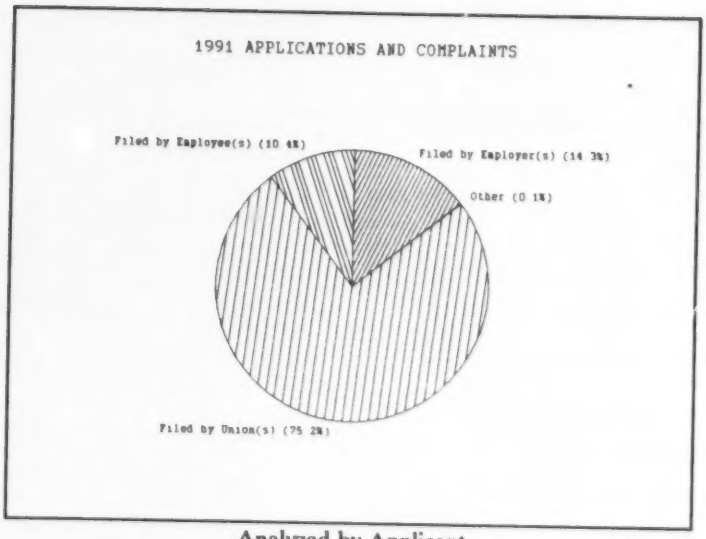
1991 APPLICATIONS AND COMPLAINTS ANALYZED BY APPLICANT

	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total
For the Appointment(s) of an Observer(s) of a Strike or Lockout Poll	5	373	0	0	378
For the Appointment of an Arbitrator	0	484	0	0	484
For an Interim Order	12	5	1	0	18
For a Last Offer Vote	20	0	0	1	21
For Religious Exemption	0	0	37	0	37
For an Order Regarding an Alleged Failure to Execute or Comply with a Collective Agreement	3	27	1	0	31
For an Order Regarding Alleged Unlawful Alteration of Employment Terms and Conditions	0	46	0	0	46
For Essential Service Designations	2	0	0	0	2
For a Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Industrial Relations Act)	5*	14*	2*	0	19*
For an Order Prohibiting a Secondary Boycott	3	0	0	0	3
For an Order Regarding Freedom of Association	1	0	0	0	1
To Appoint a Fact Finder	0	0	0	0	0
Miscellaneous	7	30	4	1	42
For Reconsideration of a Decision	33	36	27	0	96
To file an order in the Supreme Court	32	13	2	1	48
TOTAL	455*	2392*	332*	3	3176*

cont.

* Totals by applicant do not equate with total applications because certain applications were filed jointly.

TABLE 8 (cont.)
1991 APPLICATIONS AND COMPLAINTS ANALYZED BY APPLICANT



Analyzed by Applicant

TABLE 9

ANALYSIS OF MEDIATION OFFICER APPOINTMENTS

Appointments continued from previous year	9
Appointments made - January 1-December 31, 1991	67
TOTAL	76
Breakdown of Appointments	
On application of employers	21
On application of trade unions	46
Joint applications	
* At direction of the Minister or Commissioner	0
TOTAL	67
Coverage of Appointments	
Number of employers involved	68
Number of units affected	67
Number of employees involved	5579
Disposition of Appointments	
Parties reached agreement	55
Parties did not reach agreement	3
Appointments continuing	16
Appointments rescinded	1
* Other (plant closure, decertification)	1
TOTAL	76
Additional Settlements	
Following report of the mediation officer	4
No official appointment	0
TOTAL	4

TABLE 10
DISPUTES COMPLETED BY MEDIATION OFFICERS IN 1991

Appointments	76
Less rescinded appointments	1
Less continuing	16
Less plant closure, decertification	1
TOTAL	58
Plus no appointment	0
TOTAL DISPUTES COMPLETED	58
Disputes settled during mediation officer's term	51
Disputes settled after mediation officer's term	4
Disputes settled no official appointment	0
TOTAL SETTLED	55
Disputes reported not settled	3
Less settled following report	0
TOTAL NOT SETTLED	3
SUCCESS RATE OF SETTLEMENTS	94.83%

TABLE A

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(1) THE LABOUR CODE

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code, R.S.B.C. 1979, c.212 (formerly Labour Code of British Columbia, S.B.C. 1973, (2nd Sess.), c.122)	November 13, 1973 Proclamation	12, 26, 124, 139, 140, 150	Reg. 424/74, Pt.II, V.16, p.645
	December 20, 1973 Proclamation	21, 55	Reg. 12/74, Pt.II, V.17, p.158
	January 14, 1974 Proclamation	1-11, 13-20, 22-25, 27-30, 32-54, 56, 59-69, 73, 92-112, 122, 123, 125-127, 138, 141-149, 150A, 151(a), 152	Reg. 41/74, Pt.II, V.17, p.192
	January 24, 1974 Proclamation	70-72	Reg. 53/74, Pt.II, V.17, p.195
	March 1, 1974 Proclamation	74-78	Reg. 154/74, Pt.II, V.17, p.407
	March 14, 1974 Proclamation	113-121A	Reg. 174/74, Pt.II, V.17, p.433
	August 15, 1974 Proclamation	57, 58	Reg. 578/74, Pt.II, V.17, p.949
	September 2, 1974 Proclamation	31, 79-91	Reg. 606/74, Pt.II, V.17, p.998
	September 16, 1974 Proclamation	151(b) and (c)	Reg. 682/74, Pt.II, V.17, p.1116

TABLE A (cont.)

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(2) AMENDING ACTS

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Statute Law Amendment Act, 1974, S.B.C. 1974, c.87, s.22	October 14, 1974 Proclamation	22(a) (among others)	Reg. 709/74, Pt.II, V.17, p.1158
	June 20, 1974 Royal Assent	22(b) - 22(i) (among others)	N/A
Essential Services Continuation Act, S.B.C. 1974, c.108, s.6	August 9, 1974 Royal Assent	6 (among others)	N/A
Elevator Construction Industry Labour Disputes Act, S.B.C. 1974, c.107, s.6	November 26, 1974 Royal Assent	6 (among others)	N/A
Labour Code of British Columbia Amendment Act, 1975, S.B.C. 1975, c.33	June 26, 1975 Royal Assent	1-6, 8-33	N/A
	January 14, 1974 Retroactive Effect	7	N/A
Labour Code of British Columbia Amendment Act, 1976, S.B.C. 1976, c.26	June 30, 1976 Royal Assent	1-8	N/A
Miscellaneous Statutes Amendment Act, 1976, S.B.C. 1976, c.32	July 8, 1976 Proclamation	12A	Reg. 391/76, Pt.II, V.19, p.511
Labour Code of British Columbia Amendment Act, 1977, S.B.C. 1977, c.72	September 27, 1977 Royal Assent	1-12	N/A
Ministerial Titles Amendment Act, S.B.C. 1977, c.75	October 21, 1977 Proclamation	Sch. I, Ss.8(2), 127(3), 129(a), 136, 137(1)(a)	N/A
Essential Services Disputes Act, S.B.C. 1977, c.83	October 28, 1977 Proclamation	19 repeals 73(1) to (6)	N/A
Miscellaneous Statutes Amendment Act, 1978, S.B.C. 1978, c.28	July 6, 1978 Proclamation	11 amends 69	N/A
Financial Administration Act, S.B.C. 1981, c.15	November 26, 1981 Proclamation	117 repeals 139(2)	Reg. 468/81, Pt.II, V.24, p.981
Court of Appeal Act, S.B.C. 1982, c.7	September 7, 1982 Proclamation		Reg. 302/82, Pt.II, V.25, p.428

TABLE A (cont.)

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(2) AMENDING ACTS (cont.)

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code Amendment Act, 1982, S.B.C. 1982, c.59	August 4, 1982 Proclamation		Reg. 354/82, Pt.II, V.25, p.564
Regulations Act, S.B.C. 1983, c.10	October 26, 1983 Regulation	21, 25 and Schedules 2 and 16 amend 21(2), 29(1)(a), (b), 29(2), 35(c), 42(2), 59(2), 60(c), 61(2), 73(1)(a), 75, 81(5)(a), (6), 142(1), 154	Reg. 393/83, Pt.II, V.26, p.607
Labour Code Amendment Act, 1984, R.S.B.C. 1984, c.24	June 8, 1984 Regulation	1-19 except 13	Reg. 167/84, Pt.II, V.27, p.221
	August 27, 1984 Regulation	13	Reg. 274/84, Pt.II, V.27, p.358
Commercial Arbitration Act, S.B.C. 1986, c.3	July 4, 1986 Regulation	47 repeals 99(4)	Reg. 148/86
Industrial Relations Reform Act, 1987, S.B.C. 1987, c.24	July 27, 1987 Regulation	The whole Act except S.2(e) and that part of S.60 that enacts S.137.97 to S.137.99	Reg. 246/87
Miscellaneous Statutes Amendment Act (No. 5), 1987, S.B.C. 1987, c.60	December 17, 1987 Royal Assent	9 amends 26(2)	
Budget Measures Implementation Act, 1989, S.B.C. 1989, c.1	Retroactive to April 1, 1988	5 amends 123.1	

TABLE B

STATUTES CONFERRING AUTHORITY ON THE COUNCIL

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Industrial Relations Act, R.S.B.C. 1979, c.212	Refer Table A	1-127, 137.1-137.96, 138-154	
Public Service Labour Relations Act, R.S.B.C. 1979, c.346	January 3, 1974 Proclamation	1-14, 17-28 (amendments to Ss.4, 11 and 17 yet to be proclaimed)	Reg. 14/74, Pt.II, V.17, p.160
Assessment Authority Act, R.S.B.C. 1979, c.22	June 20, 1974 Royal Assent	21 (among others)	N/A
Institute of Technology Act, R.S.B.C. 1979, c.199	July 4, 1974 Proclamation	7	Reg. 485/74, Pt.II, V.17, p.788
Ferry Corporation Act, R.S.B.C. 1979, c.128	June 30, 1976 Royal Assent	23 (among others)	N/A
System Act, R.S.B.C. 1979, c.399	September 1, 1977 Proclamation	17 (among others)	Reg. 349/77, Pt.II, V.20, p.665
Science Council Act, R.S.B.C. 1979, c.379	June 29, 1978 Royal Assent	1-17	N/A
British Columbia Transit Act, R.S.B.C. 1979, c.421	June 29, 1978 Royal Assent	1-25	N/A
College and Institute Act, R.S.B.C. 1979, c.53	October 10, 1978 Proclamation	30(8)	Reg. 463/78, Pt.II, V.21, p.1219
	December 15, 1977 Proclamation	42 (among others)	Reg. 607/77, Pt.II, V.21, p.357
Metro Transit Operating Company Act, R.S.B.C. 1979, c.257	July 31, 1979 Royal Assent	6	N/A
Employment Standards Act, S.B.C. 1980, c.10	March 14, 1981 Proclamation		Reg. 35/81, Pt.II, V.24, p.85
Metro Transit Collective Bargaining Assistance Act, S.B.C. 1984, c.33	September 14, 1984 Royal Assent	1-12	N/A

TABLE C

REGULATIONS UNDER THE INDUSTRIAL RELATIONS ACT

Effective Date	Regulation No.	B.C. Gazette References
* July 27, 1987	Industrial Relations (Voting) Regulation	Reg. 247/87, Pt.II, V.30, p.268
* July 27, 1987	Industrial Relations (Practice and Procedure) Regulation	N/A

---

* Reg. 247/87 was enacted by the Lieutenant Governor in Council pursuant to Section 150 of the Act. Reg. 247/87 repealed the Labour Code Regulations, B.C. Reg. 522/73. On July 27, 1987, pursuant to Section 21(2) of the Act, and with the approval of the Minister of Labour and Consumer Services, the Industrial Relations Council made the Industrial Relations (Practice and Procedure) Regulation, which may be referred to as the Industrial Relations Council Rules.

TABLE D

STATUTES AFFECTING THE INDUSTRIAL RELATIONS ACT

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
University Act, R.S.B.C. 1979, c.419	October 7, 1977 Proclamation of S.38, Miscellaneous Statutes Amendment Act, 1977, S.B.C. 1977, c.76	80	Reg. 434/77, Pt.II, V.20, p.767

Queen's Printer for British Columbia ©
Victoria, 1992